REPUBLIC OF KENYA

NATIONAL ASSEMBLY

TWELFTH PARLIAMENT– THIRD SESSION

DIRECTORATE OF COMMITTEE SERVICES

THE PUBLIC ACCOUNTS COMMITTEE

REPORT ON THE EXAMINATION OF THE REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS FOR THE NATIONAL GOVERNMENT

FOR THE

FINANCIAL YEAR 2015/2016

VOLUME I

AS ADOPTED BY THE HOUSE ON 4TH JUNE, 2019

Contents

LIST OF ABBREVIATIONS

AGL	-	Above Ground Level
AIA	-	Appropriation-In-Aid
AIE	-	Authority to Incur Expenditure
ASCU	-	Agricultural Sector Coordinating Unit
ATC	-	Agricultural Training Centres
CBK	-	Central Bank of Kenya
CBS	-	Commander of the Burning Spear
CFS	-	Consolidated Fund Services
CoB	-	Controller of Budget
CoK	-	Constitution of Kenya
CRBR	-	Counter Receipt Book Registers
CRJ	-	Chief Registrar of Judiciary
CSFC	-	Cereals and Sugar Finance Corporation
DCI	-	Director Criminal Investigations
DPP	-	Director of Public Prosecution
DYT	-	Department of Youth Training
EABL	-	East African Breweries Limited
EAC	-	East African Community
EACC	-	Ethics and Anti-Corruption Commission
FEPACI	-	Pan-African Federation of Film
GAA	-	Government Advertising Agency
GDP	-	Gross Development Product
GFS	-	Government Financial Statistics
GSU	-	General Service Unit
ICDC	-	Industrial and Commercial Development Corporation
ICTA	-	Information Communication Technology Authority
IDB	-	Industrial Development Bank
IDPs	-	Internally Displaced Persons
IFMIS	-	Integrated Financial Management Information System
IGRTC	-	Inter-Governmental Relations Technical Committee
IPSAS	-	International Public Sector Accounting Standards

JCF	-	Joint Consolidated Fund
JSC	-	Judicial Service Commission
KALRO	-	Kenya Agricultural and Livestock Research Organization
KCAA	-	Kenya Civil Aviation Authority
KCB	-	Kenya Commercial Bank
KCFNMS	-	Kenya Citizens and Foreign National Management
KEMRI	-	Kenya Medical Research Institute
KEPSHA	-	Kenya Primary School Heads Association
KIMC	-	Kenya Institute of Mass Communication
KLLSF	-	Kenya Local Loans Support Fund
KPA	-	Kenya Ports Authority
KPLC	-	Kenya Power and Lighting Company
KPSTC	-	Kenya Police Service Training College
KPTC	-	Kenya Posts and Telecommunication Corporation
KRA	-	Kenya Revenue Authority
KTCIP	-	Kenya Transparency Communication Infrastructure Project
LPO	-	Local Purchase Order
MDAs	-	Ministries Departments and Agencies
MOE	-	Ministry of Education
MOHA	-	Ministry of Home Affairs
MOU	-	Memorandum of Understanding
MOYAS	-	Ministry of Youth Affairs and Sports
MTC	-	Ministerial Tender Committee
MTEF	-	Medium Term Expenditure Framework
NALM	-	National Assets and Liabilities Management
NCAJ	-	National Council for Administration of Justice
NCCC	-	National Consultative Coordination Committee
NCLR	-	National Council for Law Reporting
NCPB	-	National Cereals and Produce Board
NDMA	-	National Disaster Management Authority
NHIF	-	National Hospital Insurance Fund
NOCK	-	National Oil Company of Kenya

NOFBI	-	National Optic Fiber Backbone Infrastructure
NPS	-	National Police Service
NPSC	-	National Police Service Commission
OAG	-	Office of the Auditor General
OOP	-	Office of the President
PAC	-	Public Accounts Committee
PA-K	-	President's Award Kenya
PAYE	-	Pay As You Earn
PFM	-	Public Finance Management Act
PIN	-	Personal Identification Number
PMG	-	Paymaster General
PMIS	-	Pension Information Management System
PSASB	-	Public Sector Accounting Standard Board
PSSSA	-	Public Service Superannuation Scheme Act
RDU	-	Rapid Deployment Unit
SAGAs	-	Semi-Autonomous Government Agencies
SCAC	-	State Corporation Advisory Committee
SRC	-	Salaries and Remuneration Commission
TMEA	-	Trade Mark East Africa
UNDP	-	United Nations Development Programme
UNHCR	-	United Nations High Commissioner for Refugees
UNICEF	-	United Nations Children's' Fund
USAID	-	United States Agency for International Development
VGA	-	Volunteer Graduate Assistants
VAT	-	Value Added Tax
YEDF	-	Youth Enterprise Development Fund

CHAIRPERSON'S FOREWORD

Honourable Speaker, on behalf of the Public Accounts Committee (PAC), and pursuant to Standing Order 199, it is my pleasant duty and honour to present to the House the report of the Committee on the audited financial statements of Ministries, State Departments, Commissions and Independent Offices for financial year 2015/2016.

The National Assembly exercises oversight over national revenue and its expenditure pursuant to Article 95(4) (c) of the Constitution through PAC which, in turn, derives its mandate from Standing Order 205.

The tabling of this report, barely four months after the adoption by the House of the Committee's report for the financial year 2014/2015, is a major milestone in PAC's calendar on the continuing scrutiny of value for money, efficiency and effectiveness of public spending and on holding the Government and its officers to account for the delivery of services to the public.

Honourable Speaker, the Committee is ever cognizant of the enormous responsibility bestowed upon it by the Constitution and House Standing Orders. This responsibility, inevitably, comes with high public expectations. Moreover, under Article 203(3) of the Constitution, the equitable share of the revenue raised nationally and allocated to the National Government and County Governments is to be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

The Committee, in an endeavour to meet the tight constitutional timelines, has had to be innovative in its approach to dealing with the huge backlog of unexamined audited accounts inherited from the 11th Parliament. The Committee is still committed to achieving its self-set target of up-to-date status in the examination of audited financial statements beginning with 2017/2018 financial year.

The Committee held a total of Sixty Four (64)sittings during which it received both written and oral evidence from Accounting Officers on audit queries raised by the Auditor-General. Minutes of the Committee's meetings are annexed to this report.

Honourable Speaker, at this juncture, allow me to commend, most sincerely, all the accounting officers whose financial statements were given a clean bill of health by the Auditor General. The Committee remains forever grateful to them for setting the benchmark. I urge all other Accounting Officers to emulate these examples.

In this report, the Committee has continued to hold individual officers to account for their various acts of omission and/or commission that occasioned loss of public funds. In a number of instances, the Committee has invoked the provisions of Article 226(5) of the Constitution and recommended that the concerned officers make good the losses that have arisen under their watch, upon conclusive investigations by the relevant investigative agencies.

In conclusion, Honourable Speaker, I wish to register my appreciation to fellow Honourable Members of the Committee, the Offices of the Speaker and the Clerk of the National Assembly, the

Office of the Auditor General, the National Treasury and those Accounting Officers who dutifully honoured their obligations and made quality submissions before the Committee. Special appreciation also goes to the Directorate of Committee Services and, in particular, members of the Committee Secretariat who have had to go beyond the normal call of duty on numerous occasions.

The commitment and devotion to duty of all those involved in this arduous task made the work of the Committee and production of this report a success. I thank each one of them.

Honourable Speaker, on behalf of the Public Accounts Committee, I now wish to table the report and urge the House to adopt it and the recommendations therein.

HON. JAMES OPIYO WANDAYI, MP

1.0 INTRODUCTION

1.1 Establishment of the Public Accounts Committee

The Public Accounts Committee was established on Monday, 18 December 2017, pursuant to Article 124 of the Constitution and the National Assembly Standing Order 205.

1.2 Mandate of the Committee

The Public Accounts Committee (PAC) is mandated under Standing Order 205 (2) of the National Assembly Standing Orders to examine the accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the committee may deem fit.

The Committee oversights the expenditure of public funds by ministries, state departments, commissions and independent offices, to ensure value for money and adherence to government financial regulations and procedures. The Committee executes its mandate on the basis of annual and special audit reports prepared by the Office of the Auditor General.

1.3 Guiding Principles

In the execution of its mandate afore-stated, PAC is guided by core constitutional and statutory principles on public finance management, as well as established customs, traditions, practices and usages. These principles include:

1) Constitutional Principles on Public Finance

Article 201 provides for the fundamental principles that "…shall guide all aspects of public finance in the Republic…" These principles are, *inter alia*:-

201(a) there shall be openness and accountability, including public participation in financial matters;
201(d) public money shall be used in a prudent and responsible way; and
201(e) financial management shall be responsible, and fiscal reporting shall be clear.

PAC places a premium on these principles, among others, and has been guided by them in the entire process that has culminated in this report.

2) Direct Personal Liability

Article 226(5) of the Constitution is emphatic that **"If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not''.**
PAC has relied on this constitutional provision as the basis for holding each individual Accounting Officers and other Public Officers directly and personally liable for any loss of public funds under their watch. The Committee has and will continue to invoke this provision in its recommendations to hold those responsible personally accountable. It is envisaged that it will serve as a deterrent measure.

3) Obligations of Accounting Officers

Section 68 (1) of the Public Finance Management Act, 2012 provides, *inter alia*, that: **"An accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary shall be accountable to the National Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used in a way that is**

lawful and authorized, and effective, efficient, economical and transparent."

This provision obligates all accounting officers to appear before the Public Accounts Committee of the National Assembly to respond to audit queries in their respective ministries/state departments or agencies.

And section 74 (2) of the same PFM Act stipulates that: **"If a Cabinet Secretary reasonably believes that an accounting officer is engaging in or has engaged in improper conduct within the meaning of subsection (4), the Cabinet Secretary shall: -**

i. **Take such measures as may be provided in regulations; or**
ii. **Refer the matter to the relevant office or body in terms of the statutory and other conditions of appointment or employment applicable to that accounting officer."**

This section empowers the appointing authority to discipline errant accounting officers, which could include revoking their appointment. This provision has sealed a long-standing loophole that has previously seen accounting officers continuously commit or preside over fiscal indiscipline and malpractice in their ministries, departments and agencies.

PAC strongly holds the view that these provisions of the law were intended to be fully deployed to give effect to the high principles in Article 201 of the Constitution stated hereinabove, to ensure prudent and responsible use of public funds.

1.4 Committee Membership

Chairperson
Hon. James Opiyo Wandayi, MP
Ugunja Constituency
Orange Democratic Movement Party

Vice- Chairperson
Hon. Jessica Nduku Kiko Mbalu, MP
Kibwezi East Constituency
Wiper Democratic Movement Kenya Party

Members

Hon. Junet Mohammed Nuh, MP
Suna East Constituency
Orange Democratic Movement Party

Hon. Maj. (Rtd.) (Dr.) Eseli Simiyu, MP
Tongaren Constituency
Ford- Kenya Party

Hon. Tom J. F. Kajwang, MP
Ruaraka - Constituency
Orange Democratic Movement Party

Hon. Christopher Nakuleu Doye
TurkanaNorth Constituency
Jubilee Party

Hon. Patrick Makau King'ola, MP
Mavoko Constituency
Wiper Democratic Movement Kenya Party

Hon. Florence Mwikai Mutua, MP
Woman Representative - Busia County
Orange Democratic Movement Party

Hon. Mathias Robi Nyamabe, MP
Kuria West Constituency
Jubilee Party

Hon. (Dr.) Otiende Amollo, MP
Rarieda Constituency
Orange Democratic Movement Party

Hon. Gideon Koske Kimutai, MP
Chepalungu Constituency
Chama Cha Mwananchi Party

Hon. Michael Mwangi Muchira, MP
Ol Jororok Constituency
Jubilee Party

Hon. Francis Kuria Kimani, MP
Molo Constituency
Jubilee Party

Hon. Samson Ndindi Nyoro, MP
Kiharu Constituency
Jubilee Party

Hon. Peter Francis Masara, MP
Suna West Constituency
Independent Member

Hon. Michael Thoyah Kingi, MP
Magarini Constituency
Orange Democratic Movement Party

Hon. James Gichuhi Mwangi, MP
Tetu Constituency
Jubilee Party

Hon. Daniel Kipkogei Rono, MP
Keiyo South Constituency
Jubilee Party

Hon. Qalicha Gufu Wario, MP
Moyale Constituency
Jubilee Party

1.5 Committee Secretariat

Oscar Namulanda

<u>Principal Clerk Assistant II</u>

Nebert Ikai

<u>Third Clerk Assistant</u>

Josh Kosiba

<u>Senior Fiscal Analyst</u>

Sidney Okumu Lugaga

<u>Legal Counsel II</u>

Caroline M. Njue

<u>Research Officer III</u>

Salat Abdi Ali

<u>Senior Serjeant At Arms</u>

Stephen Nyakuti

<u>Audio Officer</u>

2.0. GENERAL OBSERVATIONS AND RECOMMENDATIONS

2.1 Introduction

This chapter presents a summary of general observations and recommendations by the Committee arising from the proceedings during evidence taking and selected project visits relating to the FY 2015/2016.

2.2 Review of Expenditures Execution in the Financial Year ended 30th June 2016

a) The Accounting Officer of a national public entity is accountable to the National Assembly for its financial management as provided for in Article 226(2) of the Constitution of Kenya.The Accounting Officers of Ministries, State Departments, Constitutional Commissions and Independent Offices are mandated to monitor, evaluate and oversee the management of public finances in their respective entities including ensuring proper management and control of, and accounting for their finances in order to promote the efficient and effective use of budgetary resources pursuant to the provisions of Section 66 of the Public Finance Management (PFM) Act 2012.

b) The Committee made the following general observations on the execution of the approved budget for the FY 2015/2016:

1. **The Gross Approved Expenditures and Gross Actual Expenditures:**The gross estimated Government expenditure increased from Kshs.1,170,478,418,074 (Kshs.1.17 trillion) in the FY 2011/2012 to Kshs. 2,253,494,806,467 (Kshs. 2.25 trillion) in the FY 2015/2016 representing an increase of Kshs.1,083,016,388,393 or approximately 93% over the five year period. Similarly the actual gross expenditure has increased over the years fromKshs. 1,066,835,338,744 (Kshs. 1.06 trillion) in the FY 2011/2012 to Kshs. 1,999,174,760,912 (Kshs. 1.99 trillion) in the FY 2015/2016 representing an increase of Kshs. 932,339,422,168 or approximately 87 percent over the period.

   Committee Recommendation:

   Accounting Officers of all national government entities must at all times espouse the constitutional principles of public finances enshrined in Article 201 of the Constitution to ensure that the citizens get value from the approved budget. Further, the National Assembly should institute an effective & timely mechanism for continuous monitoring of the execution of the approved budget to ensure the approved programme-based budget (PBB) key performance indicators (KPIs), targets, and outputs are met for better outcomes and impact to the citizens.

2. **The Total Actual Expenditures for the National Government Entities:**The financial statements for the FY 2015/2016 for the national government entities showed total actual expenditure of Kshs. 1,734,955,070,916 (Kshs. 1.73 trillion) representing 87 percent of the gross estimated expenditure of Kshs.1,989,275,116,471 (Kshs. 1.99 trillion). The actual expenditure for the FY represented an increase of Kshs. 57,449,807,189 (Kshs. 57.45 billion) or 3 percent when compared with actual expenditure of Kshs. 1,677,505,263,727

(Kshs. 1.68 trillion) in the FY 2014/2015. The Actual Expenditure of Kshs.1,734,955,070,916 comprised expenditure amounting to Kshs.1,258,452,454,478 or 73 percent and Kshs. 476,502,616,438 or 27 percent of the total actual expenditure under combined recurrent and development votes and Consolidated Fund Services (CFS) respectively.The audited financial statements for the FY 2015/2016 for the national government showed a gross under-expenditure of Kshs.254,320,045,555 (Kshs. 254.3 billion) made up of under-expenditure of Kshs. 236,146,265,045 (Kshs. 236.15 billion) for combined recurrent and development votes and under-expenditure of Kshs.18,173,780,510 (Kshs. 18.17 billion) for CFS. Accounting Officers attributed the budget under-expenditures mainly to inadequate and or delays in exchequer issues, delayed disbursement of donor funds, and challenges associated with IFMIS.

Committee Recommendation:

The Cabinet Secretary, National Treasury should ensure that there is predictable and prompt disbursement of exchequers to the spending entities and challenges associated with donor funds are addressed in time for efficient budget execution. Further, Accounting Officers should at all times align their approved budgets to realistic work plans, procurement plans and annual cash flow plans as required under the PFM Act 2012, PFM (National Government) Regulations 2015 and the PPAD Act 2015 and other budget preparation and execution guidelines issued by the National Treasury from time to time.

3. **Outstanding Imprest:**

Accounting Officers are mandated to manage imprest in the various national government entities pursuant to Regulation 92 of the PFM (National Government) Regulations 2015. The Committee observed instances where some Accounting Officers failed to ensure that imprest issued to officers and were due were recovered within the stipulated time as per the provisions of PFM Act 2012 and Regulation 93 of the PFM (National Government) Regulations 2015. The Committee noted that total imprest balances amounting to Kshs. 350,983,457 which ought to have been recovered or accounted for on or before 30th June 2016 were not recovered or accounted for on or before the due dates as stipulated by law. Further, the outstanding imprest of Kshs. 350,983,457 was a significant increase as compared to the total outstanding imprest of Kshs. 117,553,816 recorded in the FY 2014/2015.

Committee Recommendation:

Accounting Officers must at all times ensure that imprests are recovered within the stipulated time of seven (7) days as provided for in Regulation 93 (5) of the PFM (National Government) Regulations 2015. In the event that imprests holders fail to account for or surrender the outstanding imprest by the due date, Accounting Officers must take immediate action to recover the outstanding amount in full from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate as provided in Regulation 93(6) of the PFM (National Government) Regulations 2015.

4. **Pending Bills:**

The Committee observed that during the year ended 30th June 2016, a number of national government entities did not settle bills amounting to Kshs. 20,472,313,203 (Kshs. 20.47 billion) which was a decrease of 53 % from the previous year's figure of Kshs. 43,212,107,778 (Kshs. 43.21 billion). The figure of Kshs. 20,472,313,203 comprised of Kshs. 18,061,544,836 (Kshs. 18.06 billion) and Kshs. 918,762,563 (Kshs. 918.7 million) under Recurrent and Development Votes respectively and a further Kshs. 1,492,005,804 (Kshs. 1.49 billion) that was not classified. The bills were instead carried forward to the FY 2016/2017. The Accounting Officers for the following votes did not settle pending bills totaling at least Kshs. One (1) billion during the FY:

Vote	**MDA**	**Amount (KShs)**
1021	State Department for Interior	1,800,614,863
1022	State Department for Coordination of National Government	4,523,107,327
1031	State Department for Planning	2,505,894,057
1032	State Department for Devolution	2,939,375,585
1071	The National Treasury	1,420,834,713
1081	Ministry of Health	2,478,438,287
1111	Ministry of Land, Housing & Urban Development	1,693,351,703

Failure to settle bills during the year they are incurred is likely to adversely affect the subsequent year's budgeted programmes. Further, delays in settling outstanding bills contravenes the principle of responsive, prompt, effective, impartial and equitable provision of services as articulated in Section 7 of the Public Service (Values and Principles) Act, 2015.

Committee Recommendation:

Accounting officers must at all times ensure that pending bills are treated as a first charge on the approved budget of the subsequent financial year and should prepare estimates of expenditure and revenues of the entity in conformity with the strategic plan pursuant to the provisions of section 68(2) (h) of the Public Finance Management Act, 2012. Further, the Cabinet Secretary for the National Treasury should put in place mechanisms to ensure that bills due are promptly settled to ensure responsive,

prompt, effective, impartial and equitable provision of services as articulated in Section 7 of the Public Service (Values and Principles) Act, 2015.

2.3 Statement on Audited Accounts of Revenue for the period ending 30th June 2016:

Article 203 (2) of the Constitution provides that for every financial year, the equitable share of the revenue raised nationally that is allocated to county governments shall be not less than fifteen per cent of all revenue collected by the national government. The amount of equitable share of national revenue for the county government is calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

1. The revenue statements for the FY 2015/2016 indicated that total revenue recorded and audited under various revenue statements as received by the national government amounted to Kshs. 1,193,619,138,664 (Kshs. 1.193 trillion) representing an increase of Kshs. 108,770,096,297 (Kshs. 108.8 billion) or approximately 10 percent when compared to actual collections of Kshs. 1,084,849,042,367 (Kshs. 1.084 trillion) realized in the FY 2014/2015. The total revenue of Kshs. 1,193,619,138,664 collected when compared to total budgeted receipts of Kshs. 1,199,736,843,062 resulted in an under-collection of revenue of Kshs. 6,117,704,398 or 0.51%.
2. The total revenue of Kshs.1,193,619,138,664 comprised of Kshs.1,160,726,658,504 and Kshs.32,892,480,160 relating to Recurrent and Development revenues respectively. However, actual Recurrent Revenue collected during the year reflected an excess of Kshs. 18,863,484,411 or 1.65 percent while there was a shortfall of Development Revenue collected of Kshs. 24,981,188,809 or 43 percent. The reasons provided for the 43 percent under-collection of Development Revenue included non-release of funds by development partners and low absorption of funds by projects and programmes.
3. The arrears of revenue due and uncollected has significantly increased from Kshs. 194,951,716,541.16 (approximately Kshs. 195 billion) as at 30th June 2015 to Kshs.380, 600,178,374 (approximately Kshs. 381 billion) as at 30th June 2016. The revenue arrears balance of Kshs.380,600,178,374 as at 31st June 2016 is made up of arrears for PAYE and Other Income Tax of Kshs.295,096,178,722, arrears for VAT and Excise Taxes of Kshs. 47,717,166,529, arrears for loan redemptions of Kshs. 13,003,682,478 and arrears for loan interests of Kshs.24,783,150,645.
4. The continued increase in arrears of national revenue denies the national and county government the scarce financial resources that it needs to undertake their development programmes and projects. The National Treasury has not explained satisfactorily how it is addressing the persistent increase in arrears of revenue. Further, the huge arrears of revenue due and uncollected undermines the principle of equitable sharing of national revenue between the national and county government as enshrined in Articles 202 and 203 of the Constitution of Kenya, 2010.

Committee Recommendation:

The Cabinet Secretary, National Treasury and the relevant institutions must make demonstrable efforts in collecting and accounting for tax revenue arrears for PAYE and Other Income Tax. The tax policy, reforms, & administrative measures should be

geared towards collecting the arrears of revenue due and uncollected; sealing leaking revenue loopholes; providing the requisite support to SMEs entrepreneurs; leveraging on ICT to harness the country's revenue potential, and use of alternative disputes resolutions (ADR) mechanism to solve revenue related disputes.

2.4 Statement on Growth in Public Debt:

The constitutional principles of public finance management in Article 201(c) provide that the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations (Intergenerational equity). The statement of public debts as at 30th June 2016 reflected an outstanding public debt of Kshs. 3,385,910,449,825 (Kshs. 3.38 trillion) representing an increase of Kshs. 711,104,085,630 (Kshs.711 billion) or 26.6 percent of the FY 2014/2015 outstanding debts balance of Kshs. 2,674,806,364,195 (Kshs. 2.567 trillion) as at 30th June 2015. As in the previous year, the net increase of debts of Kshs. 711, 104,085,630 has been attributed mainly to disbursements of new loans to the government by various development partners and additional borrowing from the domestic market through treasury bonds and treasury bills.

As was reported in the approved Budget and Appropriation Committee (BAC) report on the Budget Policy Statement (BPS) for the FY 2019/2020 and the medium term, the Country is facing significant debt refinancing pressure. The refinancing needs for the next one year (FY 2019/2020) will be USD 10.4 billion (approximately Kshs. 1.04 trillion) having risen substantially from USD 1.8 billion (approximately Kshs. 180 billion) in FY 2018/2019 and USD 1.4 billion in the FY 2017/2018. The debt refinancing requirements of debts maturing in one year in FY 2019/2020 will reach 50 percent of the total revenues. The government has not shown serious commitments in taming the ballooning public debt which is a threat to the country's fiscal stability and economic growth. The fiscal consolidation plans pursued on various government policy papers may not yield much unless verifiable action during budgeting and budget execution is taken to ensure public debts is managed at sustainable levels.

Committee Recommendation:

The policy commitments by Cabinet Secretary, National Treasury which include among others restraining the rising deficit, stabilizing public debt by enhancing revenue, rationalizing expenditures through zero based budgeting and reducing the cost of debt by diversifying funding sources should be accompanied by verifiable actions.

2.5 Summary on other Key Audit Matters :

The following is a summary of other key audit matters that arose and proposed measures that may be considered to address them-

1. **Rent Revenue Arrears in Secondary Schools**
   An audit examination of sampled schools records revealed that nine (9) secondary schools in Nairobi City County alone had an outstanding rent arrears amounting to Kshs. 6,733,037 due

from teachers and other members of staff as at the time of audit. As at March, 2017 some of the schools had made recoveries totaling Kshs. 2,594,053 leaving an outstanding balance of Kshs. 4,138,984 in six (6) schools. The problem of teachers and other members of staff who are paid house allowance and are staying in school owned houses without paying due rent maybe widespread in all schools across the country. Failure to pay rent in time by teachers and other staff who are paid house allowance amounts to improper enrichment contrary to the provisions of section 11 of Public Officer Ethics Act, 2003.

Committee Recommendation:

Within three months of adoption of this Report,the Cabinet Secretary responsible for matters relating to education should issue guidelines that mandate the head-teachers of all schools to ensure that teachers and other members of staff who reside in school staff houses commit to use a salary check-off system to pay rent due as a prerequisite for continued stay in school houses.

2. Maintenance of Accounting Records and Presentation of Financial Statements

The audit during the period under review noted that there was a general improvement in the maintenance of accounting records compared to previous years. The improvement is attributed to adoption of the IPSAS accounting framework by national government entities when accounting for public funds. This is in addition to other interventions by National Treasury aimed at improving accountability in the public sector. However, accounting for public funds is still wanting. This is evident from the basis for qualifications in the reports of the Auditor-General. A number of entities did not adhere to the IPSAS reporting framework leading to qualification of the financial statements. Further, a number of financial statements presented for audit had material misstatements. Only 30 out of 109 or 27 percent of the audited financial statements had immaterial misstatements and an unqualified audit opinion was expressed. The remaining 82 or 73 percent of the financial statements had material misstatements leading to qualification of the accounts.

Committee Commendation:

The Committee commends the Accounting Officers for the following votes for preparing financial statements that gave a true and fair view or were presented fairly, in all material respects, in accordance with PFM Act, 2012 and providing the Auditor-General with sufficient and accurate information and explanations:

1. Asiatic Widows and Orphans Fund;
2. Civil Servants Housing Scheme Fund;
3. Contingencies Fund;
4. Controller of Budget;
5. Department of Commerce and Tourism- Revenue Statement; Development Revenue; Directorate of Public Prosecutions;
6. Equalization Fund;
7. Ethics and Anti-Corruption Commission;
8. Government Press Fund;

9. Intelligence Service Development Fund;
10. Kenya Energy Environment & Social Responsibility Programme Fund;
11. Kenya Law Reform Commission;
12. Kenya Slum Upgrading, Low Cost Housing and Infrastructure Trust Fund;
13. Mechanical and Transport Fund;
14. Ministry of Information, Communication and Technology-Statement of Revenue;
15. National Cohesion and Integration Commission;
16. National Exchequer Account;
17. National Intelligence Service;
18. Parliamentary Car Loan Scheme Fund;
19. Parliamentary Mortgage Loan Scheme Fund;
20. Parliamentary Service Commission;
21. Petroleum Development Levy Fund;
22. Political Parties Fund;
23. Public Service Commission;
24. Registrar of Political Parties;
25. Salaries and Remuneration Commission;
26. State Department for Coordination-Revenue statement;
27. State Department of Fisheries; and
28. Witness Protection Agency.

Committee Recommendations:

(i) All Accounting Officers should prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time in compliance with the provisions of section 81(3) of the PFM Act 2012 and

(ii) The correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and section 68(2)(k) of the PFM Act 2012.

3. Fixed Asset Registers for MDA

Accounting Officers in some entities failed to prepare comprehensive asset register with a complete asset listing on time as required under Regulation 143 of the PFM (National Government) Regulations 2015.The Committee observed a worrying trend in many entities which did not keep and maintain fixed asset registers during the audit. These entities included:

1. the Office of the Attorney-General and Department of Justice
2. State Department of East African Affairs
3. the Judiciary
4. State Department of Labour and Social Protection.

As a result, it was not possible to establish ownership of assets belonging to MDAs. Top on the list was the Ministry of Devolution and Planning which not only lacked a proper Asset Register, but also had entries of assets whose values were grossly exaggerated. Absence of Asset Registers poses a grave risk of loss of public funds resulting from unaccounted for assets.

Committee Recommendation:

The Committee strongly recommends that it is mandatory for all MDAs to keep comprehensive asset registers. Accounting Officers who fail to keep asset records in their respective MDAs will be held personally liable and be compelled to make good the loss of public funds arising from lack of proper asset registers.

2.6 Unremitted Revenue through Huduma Centre and E-Citizen

The Committee observed that there was a recurring matter relating to non-remittance of monies collected through the e-citizen platform as highlighted in the following instances:

(iii) Huduma Centre

Postal Corporation of Kenya has been collecting revenue on behalf of the Company's Registry for name search and reservation, registration of business names, registration of companies and registration of welfare societies through a contract signed between the Corporation and Office of the Attorney General and Department of Justice (OAG & DoJ). A total of Kshs. 204,882,390 had been collected by the Corporation during the year under review as reflected in the Posta Pay EFT system.

Out of this amount, only Kshs. 66,199,200 had been remitted to OAG & DoJ revenue account at the Central Bank as at 30th June 2016, leaving a balance of Kshs. 138,683,190. This is contrary to the provisions of the contract agreement which required monies collected by the Corporation to be remitted to the revenue account on Mondays and Thursdays of every week. Further, the contract was not availed for audit review. Under the circumstances, the validity of the transactions could not be ascertained.

(iv) E-Citizen

An amount of Kshs. 11,040,750 in respect of names' search and reservation, registration of companies and registration of business names, had been collected through the E-Citizen platform by 30 June 2016. However, there was no evidence that this amount has been remitted to the Treasury as required.

Committee Recommendation:

The Auditor General should undertake a special audit of the E-Citizen platform within three months of adoption of this report, with a view to determining how much money has been collected through the platform since inception, how much revenue has been remitted to the various government agencies using the platform for service delivery and the possible factors contributing to the non-remittance.

2.7 IFMIS

(i) The Integrated Financial Management Information Systems (IFMIS) which was introduced as part of the Public Finance Management (PFM) reform initiative aimed at automating and streamlining Government's financial management processes and procedures has not met its key objective. The PFM financial statements and record keeping is still riddled with basic anomalies including reconciliations exposing public funds to abuse.

(ii) There are persistent systemic challenges with IFMIS record keeping where for instance, in the financial year, the State Department's financial statements had difference of Kshs. 41,992,571,850 as a balancing figure on the Statement of Financial Position accruing from usage of IFMIS generated balances. These challenges have been continuously brought to the attention of Cabinet Secretary for the National Treasury by the Accounting Officers.

Committee Recommendation:

The Cabinet Secretary, National Treasury should review and present policy guidelines to the National Assembly relating to processes including reporting and efficacy of the IFMIS systemwithin three months of the adoption of this report.

3.0. THE NATIONAL TREASURY

FINANCIAL STATEMENTS FOR VOTE 1071

Dr. Kamau Thugge, the Accounting Officer for the National Treasury (Vote 1071) appeared before the committee on 5th July 2018 to adduce evidence on the Audited Financiaql Statements for the National Teasury (Vote 1071) for the Financial Year 2015/2016. (Minutes of the Committee Sittings and submissions Tabled by the Accounting Officer are annexed to this report). He was accompanied by the following officials:

1. **Mr. Mutua Kilaka** — **Principal Administrative Secretary**
2. **Ms. Esther Koimett** — **Director General – PIPM**
3. **Mr. Bernard Ndung'u** — **Director General Accounting and Quality Assurance**
4. **Dr. Geoffrey Mwau** — **Director General – BFEA**
5. **Mr. Benson Karongo** — **Commissioner – KRA**
6. **Mr. Shem Nyakuti** — **PS/ DoP**
7. **Mr. Kimathi Mugambi** — **Senior Chief Finance Officer**
8. **Mr. Francis Amuyunzu** — **Assistant Accountant General – Pensions**
9. **Mr. Bonface Simba** — **DS;**
10. **Mr. Felix Ateng** — **H/GCA**
11. **Mr. Daniel Ndolo** — **Director, Department of Pension Services**
12. **Mr. Peter M. Mulavu** — **D/Director SCMS**
13. **Mr. Daniel Kagira** — **Deputy Commissioner – KRA**
14. **Ms. Beatrice Gathirwa** — **Director NALM**
15. **Ms. Damaris Onsomu** — **Principal Finance Officer**
16. **Ms. Lilian W. Dishon** — **Principal Accountant**
17. **Ms. Sheila Adwagah** — **Assistant Manager, KRA**
18. **Mr. Joseph Simba** — **Accountant I – Pensions**
19. **Mr. Hubert Habil Anyanga, Accountant**

Basis for Qualified Opinion

1. Unaccounted for Fuel for Leased National Police Service Vehicles

Note 13 to the financial statements indicated an amount of Kshs. 8,981,231,224 under other operating expenses which included an amount of Kshs.678,717,318 and Kshs.5,074,184,043 in respect of fuel and lease of motor vehicles respectively, paid by the National Treasury for provision of fuel and leased vehicles for the National Police Service. An audit inspection carried out in some fifteen (15) County headquarters, however, revealed various discrepancies between the monthly fuel invoices and the volume of fuel allocation as reflected in the motor vehicle records. As a result, fuel worth Kshs. 20,004,118 was not properly accounted for.

Submission by Accounting Officer

The Accounting Officer submitted that on certain instances, police vehicles are fueled for purposes of lock-ups and standby in readiness to respond to anticipated incidences or any eventualities. The vehicles in such deployments have to be fueled and kept on standby in readiness for security patrols. It is also noted that as a result of the nature of security operations bulk fuel is drawn which may not be used at the same time but carried by a lorry on behalf of the other vehicles hence the vehicles sometimes will not be moving at the time of fueling. This fuel is however reflected by the fuel supplier as drawn by the vehicle drawing fuel in bulk. In designated Arid and Semi-Arid Lands (ASAL) areas, it is economical to carry fuel in bulk by designated vehicles (a lorry) that will then fuel the other vehicles, which therefore appear as having not moved at the time of fueling.

In cases where motor vehicles are seen to have drawn fuel yet they were in garages, it means that relief vehicles were allocated. When the leased vehicles are at the garages for a considerably longer period, the service provider provides a relief vehicle. These temporary relief vehicles are not allocated fuel cards and are fueled using the fuel card meant for the vehicle in garage. As from the financial year 2016-2017 fuel tagging was introduced to all leased vehicles hence going forward, drawing of fuel for vehicles in garages or not moving has been eliminated.

The police vehicles are not purely restricted to certain locations. The leased vehicles are often deployed for security operations especially in areas affected by terrorism, banditry, communal violence and civil unrests. For instance, the National Police Service was having on going security operations in Boni forest and West Pokot, Lorries, and land cruisers previously allocated to other areas were redeployed albeit temporarily to these operations. In such instances, the vehicles' fuel is drawn in bulk ferried to the sites of the operations where in most instances are remote and have no points to draw fuel from. This means that not only are the vehicles away from their domiciled locations but also fuel is drawn away from where they are physically located.

In areas where the petrol station is far off, especially in operation areas, the monthly allocation for these vehicles is drawn in bulk and ferried in drums to fuel the vehicles in places where they are deployed.

The differences in amount of fuel invoiced with the amount indicated in the work tickets was mainly occasioned by drivers failing to enter the fuel drawn in the work tickets immediately they fuel sometime doing so later hence mixing up entries. The fuel has since been entered and the corresponding mileages are evidence that no fuel was lost. Mechanisms to mitigate the above have been instituted including:

a) Introduction of S3 cards to be maintained by the respective transport officers so as to get the balances of fuel at the end of the day. This will be used to balance the fuel incase the driver fails to update their fuel consumption in the work tickets.
b) Strengthening the headquarters transport Monitoring & Evaluation component to check and rectify drivers on the same.
c) Disciplinary action has been instituted against some drivers for these errors of omission.
d) Having a senior officer regularly check the work tickets to ensure that they are up to date.

The delay in submission of the work tickets was occasioned by the unavailability of selected motor vehicles at the time of the audit. The vehicles had been on safari or deployed for operations. The missing work tickets have since been availed for audit review.

Committee Observations

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that the delay in submission of the work tickets was occasioned by the unavailability of selected motor vehicles at the time of the audit as the vehicles had been on safari or deployed for operations and the missing work tickets have since been availed for audit review was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The work tickets relating to the expenditure incurred for fuel worth Kshs. 20,004,118 have been submitted for audit review and the Committee shall be guided by the outcome of the verification by the Auditor General.

2. Pending Bills

The statement of receipts and payments reflects total payments amounting to Kshs.92, 071,238,493 as at 30 June 2016. The amount excludes bills amounting to Kshs. 1,420,834,713 relating to 2015/2016 which were not settled during the year under review, but were instead carried forward to 2016/2017 financial year. Had the bills been settled in the year under review, the statement would have reflected a deficit of Kshs. 1,364,262,034. Failure to settle the bills in the year to which they relate adversely affects the following year's provision to which they have to be charged.

Submission by Accounting Officer

The Accounting Officer stated that the statement of receipts and payments reflected total payments amounting to Kshs. 92,071,238,493 as at 30 June 2016. The amount excluded bills amounting to Kshs. 1,420,834,713 relating to 2015/2016 which were not settled during the year under review, but were instead carried forward to 2016/2017 financial year. These bills were as a result of late submission of invoices by the suppliers and the same were paid during the FY 2016/17.

Committee Observations and Findings

(i) **The growth of pending bills from Kshs. 632,331,850.00 in the FY 2014/2015 to Kshs. 1,420,834,713 in the FY 2015/2016 at the National Treasury clearly demonstrates that subsisting fiscal policies are inadequate to ensure proper management and control of, and accounting for the finances of the national government and its entities in order to promote the efficient and effective use of budgetary resources at the national level as stipulated in section 12(2) (b) of the PFM Act 2012.**

(ii) **The submission by the Accounting Officer that the pending bills amounting to Kshs. 1,420,834,713 in the FY 2015/2016 at the National Treasury have been cleared was persuasive and the latter position was confirmed by the Auditor General.**

(iii) **The Committee marked the matter asresolved.**

Committee Recommendations

Accounting officers must at all times ensure that pending bills are treated as a first charge in the subsequent financial year approved budget and prepare estimates of expenditure and revenues of the entity in conformity with the strategic plan pursuant to the provisions of section 68(2) (h) of the Public Finance Management Act, 2012. Further, the Cabinet Secretary for the National Treasury should put in place mechanisms to ensure that bills due are promptly settled to ensure responsive, prompt, effective, impartial and equitable provision of services as articulated in Section 7 of the Public Service (Values and Principles) Act, 2015.

3. Outstanding Imprests

The statement of assets reflects an outstanding imprests balance of Kshs.1,661,284 which ought to have been recovered or accounted for on or before 30 June 2016. No reasons have, however, been provided for failure to surrender or account for the imprests as of 30 June 2016.

Submission by Accounting Officer

The Accounting Officer stated that the statement of assets reflected an outstanding imprests balance of Kshs.1, 661,284 which ought to have been recovered or accounted for on or before 30 June 2016. This amount, Kshs.1, 661,284 has already been recovered as per the attached copies of receipt vouchers (F.O 17), I.P.P.D By-products and official receipts.

Committee Observations and Findings

(i) The submission by the Accounting Officer that the outstanding imprests amounting toKshs.1, 661,284 in the FY 2015/2016 at the National Treasury have been cleared was persuasive and the latter position was confirmed by the Auditor General.

(ii) The Committee marked the matter as resolved.

NATIONAL EXCHEQUER ACCOUNT

Emphasis of Matter

The Accounting Officer stated that that note 5.7 in the statement of receipts into and issues from the National Exchequer Account for the year ended 30 June 2016 which reflects an Exchequer balance of Kshs.203, 491,419 brought forward from 2014/2015 financial year. However, and as indicated in the Auditor's Report for 2014/2015, the receipt of net proceeds from commercial financing (Sovereign/Euro Bond) of Kshs.215, 469,626,036 accounted for in 2014/2015 financial year could not be ascertained as investigation into the receipts, issues, accounting and utilization of the funds related to the Sovereign/Euro Bond was still on-going as at 30 June 2016. Under the circumstances, the accuracy of the Exchequer balance of Kshs.203, 491,419 brought forward from 2014/2015 may be affected by the outcome of the on-going special audit on Euro Bond.

STATEMENT OF OUTSTANDING LOANS

Basis for Qualified Opinion

4. Outstanding Loans Balance

The statement of outstanding loans as at 30 June 2016 reflects total loans issued of Kshs.588,006,269,460, which includes new loans in 2015/2016 totaling Kshs.366,713,195,274. An amount of Kshs.15, 757,419,831 of the loans issued had been repaid, leaving a balance of Kshs.572, 248,849,628 outstanding as at that date. The total outstanding loans balance of Kshs.572,248,849,628 as at 30 June 2016 represents an increase of Kshs.375,395,966,593 or approximately 191% of total outstanding balance of Kshs.196,852,883,036 reported as at 30 June 2015. However, the accuracy of the outstanding loan balance of Kshs.196,852,883,036 as at 30 June 2015 could not be confirmed as some thirty-three (33) institutions/parastatals with a total loan balance of Kshs.187,118,801,653 reflected in the statement differed with the loan balance of Kshs.154,311,620,199 independently confirmed by these institutions/parastatals as at the same date. The resultant variance of Kshs.32, 807,181,453 was not reconciled or explained casting doubt on the accuracy of the outstanding loan balance of Kshs.196, 852,883,036 carried forward to 2015/2016 financial year.

Submission by Accounting Officer

The Accounting Officer stated that to confirm the accuracy of the outstanding loan balance of Kshs. 196,852,883,036, the National Treasury circularized and requested Entities with outstanding Loans to confirm directly to the Auditor General the principal Loan amounts owed to the National Government as at 30th June 2015. A total of thirty-three (33) Entities with a total loan balance of Kshs. 187,118,801,653 reflected in the Statement of Outstanding Loans as at 30th June 2015 confirmed to the Auditor loan balances of Kshs 154,311,620,199 resulting to a variance of Kshs 32,807,181,453.

Out of the thirty-three (33) entities circularized, the confirmations were as follows:

i. Thirteen (13) entities confirmed the same balances as reflected in the Statement of Outstanding Loans as at 30th June 2015;

ii. Thirteen (13) entities' confirmations differed from the National Treasury's figures mainly due to the National Treasury capturing the total loan amount as at the date of execution of agreement while the entities capture the loan amount drawn. At the end of the disbursement period, the total amount disbursed will be confirmed and records adjusted accordingly. In addition, for the loans denominated in foreign currency, the difference was due to the use of different exchange rate while reporting.

iii. The difference reflected on the five (5) entities was mainly due to the National Treasury capturing receipts from the entities as interest payment whereas the entity had recorded the same as principal repayment. However, the differences have been identified, analyzed and agreed upon by both parties and will be adjusted in 2017/18 FY statement.

iv. The analysis on the remaining two (2) entities are affected by lack of proper records since the loans were disbursed through Development estimates without loan agreements way before the National Treasury took over in the statement of the outstanding loans way back in 1994/1995FY. Some of these loans issued through budgetary provision were recognized as grants by the entities.

Committee Observations and Findings

(i) The accuracy of the outstanding loan balance of Kshs.196,852,883,036 as at 30 June 2015 could not be confirmed as some thirty-three (33) institutions/parastatals with a total loan balance of Kshs.187,118,801,653 reflected in the statement differed with the loan balance of Kshs.154,311,620,199 independently confirmed by these institutions/parastatals as at the same date. The resultant variance of Kshs.32, 807,181,453 was not reconciled or explained casting doubt on the accuracy of the outstanding loan balance of Kshs.196, 852,883,036 carried forward to 2015/2016 financial year.

(ii) The explanation tabled by the Accounting Officer that the National Treasury is in the process of preparing reconciliations and explanations relating to the resultant variance

of Kshs.32, 807,181,453 was persuasive and should be submitted to the Auditor General during the subsequent financial year for audit review.

(iii)The Committee marked the matter as unresolved.

Committee Recommendations

(i) **The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012; and**

(ii) **The Cabinet Secretary for the National Treasury should, within three (3) months of adoption of this report, make a recommendation to address the matter of the remaining two (2) entities which had their loans disbursed in the FY 1994/ through Development estimates without loan agreements and were recognized as grants by the entities.**

5. Non-repayments of Loans

The total outstanding loans balance of Kshs. 572,248,849,628 reflected in the statement of outstanding loans as at 30 June 2016 includes loans amounting to Kshs. 15,802,665,652 issued to the various institutions. However, these institutions have not made any efforts to repay their respective loans upon maturity as shown below:-

Institution	Amount Lent (Kshs)	Effective Year of Repayment
Agricultural Settlement Fund & Central Lands Board	70,717,700	Various
Associated Sugar Factory Ramisi	15,818,960	Various
Coffee Board of Kenya	752,510,309	Various
Cotton Lint & Seed Co.	22,632,020	Various
East African Sugar Industries Ltd	177,123,100	Various
Eldoret Municipal Council	1,058,673,824	1993
Halal Meat Products	27,701,420	1979
ICDC	89,230,500	Various

Kenya Co-operative Creameries Ltd	36,251,040	Various
Kenya Industrial Estates	423,950,484	Various
Kenya Meat Commission	940,241,100	Various
Kenya National Federation of Co-Operatives (KNFC) Ltd	5,595,600	Terms not specified
KPLC Ltd	312,479,508	31/09/2006
Kenya Torray Mills	2,982,480	1970
KTDC	48,000,000	01/07/1991
Kenya Urban Transport	40,706,140	1994
Local Government Loans Authority	7,594,273,720	Terms not specified
Miwani Outgrowers Ltd	22,600,020	Various
Miwani Sugar Mills	78,088,180	Various
Moi University	231,250,000	2010
Mombasa Pipeline Board	22,964,980	1976
Mumias Outgrowers	16,517,400	Various
Nairobi City Council	102,333,760	-
National Water Conservation & Pipeline Corporation	2,460,874,897	Various
Nzoia Sugar	158,510,100	Various
P.J. Products	2,036,820	Terms not specified
Pyrethrum Board	863,368,270	2008
South Nyanza Sugar	199,027,420	Various
Uplands Bacon	26,205,900	Various
Total	**15,802,665,652**	

Submission by Accounting Officer

The Accounting Officer stated that the total outstanding loans balance of Kshs.572, 248,849,628.36 reflected in the Statement of Outstanding Loans as at 30 June 2016 includes loans amounting to Kshs.15,802,665,652.32 made to twenty-nine (29) institutions who have not been servicing the loans upon maturity. Some of the institutions made partial repayments while others did not repay the loans.

Failure to Repay Loans are due to various reasons ranging from delay in project completion and disbursements causing extension of grace period, poor financial performance, reforms, companies under receivership or liquidation, ongoing privatization process and dormancy.

Committee Observations and Findings

(i) The total outstanding loans balance of Kshs. 572,248,849,628 reflected in the statement of outstanding loans as at 30 June 2016 includes loans amounting to Kshs. 15,802,665,652 issued to the various institutions. However, these institutions have not made any efforts to repay their respective loans upon maturity.

(ii) The submission by the Accounting Officer that failure to Repay Loans are due to various reasons ranging from delay in project completion and disbursements causing extension of grace period, poor financial performance, reforms, companies under receivership or liquidation, ongoing privatization process and dormancy was not persuasive.

Committee Recommendations

The Accounting Officer should ensure that they prepare and submit a report on the status of repayment of these loans within nine months of the adoption of this report

REVENUE STATEMENT

Basis for Qualified Opinion

6. Balance Carried Forward

The statement of revenues and transfers reflects a balance carried forward ofKshs.3,570,991,332 which includes an amount of Kshs.2,995,232,115 brought forward from 2014/2015 and previous years. No satisfactory explanation has been provided for failure to remit to the Exchequer Account, by 30 June 2016 the significant balance of Kshs. 3,570,991,332.

Submission by Accounting Officer

The Accounting Officer stated that the statement of revenue and transfers for the financial year 2015/2016 reflected a balance carried forward of Kshs.3,570,991,332 which included an amount of Kshs.2,995,232,115 brought forward from 2014/2015 and previous years. The balance of Kshs.3,570,991,332 is made up of Kshs.1,630,219,852.10 which is old balances brought forward over years for revenue and Kshs.1,940,771,479.55 for Petroleum Development Levy Fund (PDL) which also contain an old balance figure of Kshs.303,139,187.45. By the time of audit, the Task force appointed to clear old balances had not concluded its report. However, following the recommendation by the task force to clear the old balances, relevant prior year adjustments was made when preparing both the statement for revenue and PDL for the financial year 2016/2017.

The Petroleum Development Levy Fund Act revised Edition 2012 chapter 426C provides that any unspent funds in the PDL Account at the closure of the financial year shall not be paid into the consolidated fund but shall be retained for the purpose which the fund was established, hence the reason why the amount for Petroleum Development Levy Fund of Kshs.1, 649,028,602.75 was not transferred to the Exchequer Account.

Committee Observations

(i) **Statement of revenue and transfers for the FY 2015/2016 reflected a balance carried forward of Kshs.3,570,991,332 which included an amount of Kshs.2,995,232,115 brought forward from 2014/2015 and previous years;**

(ii) **The balance of Kshs.3,570,991,332 is made up of Kshs.1,630,219,852.10 which is old balances brought forward over years for revenue and Kshs.1,940,771,479.55 for Petroleum Development Levy Fund (PDL) which also contain an old balance figure of Kshs.303,139,187.45;**

(iii) **By the time of audit, the Task force appointed to clear old balances had not concluded its report. However, following the recommendation by the task force to clear the old balances, relevant prior year adjustments was made when preparing both the statement for revenue and PDL for the financial year 2016/2017; and**

(iv) **The Petroleum Development Levy Fund Act revised Edition 2012 chapter 426C provides that any unspent funds in the PDL Account at the closure of the financial year shall not be paid into the consolidated fund but shall be retained for the purpose which the fund was established, hence the reason why the amount for Petroleum Development Levy Fund of Kshs.1, 649,028,602.75 was not transferred to the Exchequer Account.**

(v) **The Committee marked the matter as unresolved.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved. Further, the Accounting Officer should ensure that theTask force appointed to clear old balances concludes its work within the timelines as per reccomendation of PAC report on the FY 2014/2015 finnacial statements.

7. Arrears of Revenue

The statement of arrears of revenue reflects revenue receipts totaling Kshs.380, 600,178,374 as due and uncollected as at 30 June 2016 compared to Kshs.194, 951,716,541 reported as at 30 June 2015. The balance of Kshs.380,600,178,374 is made up of arrears for PAYE and Other Income Tax of Kshs.295,096,178,722, arrears for VAT and Excise Taxes ofKshs.47,717,166,529, arrears for loan redemptions of Kshs.13,003,682,478 and arrears for loan interests of Kshs.24,783,150,645. Besides failure to collect the arrears, the National Treasury has not explained satisfactorily how it is addressing the persistent increase in arrears of revenue.

Submission by Accounting Officer

The Accounting Officer stated that the financial statement reflected arrears of revenue due and uncollected as 30th June 2016 of Kshs.380, 600,178,374 compared to Kshs.194, 951,716,541 reported as at 30th June 2015. The amount of Kshs.380,600,178,374 is made up of arrears for PAYE and other income tax of Kshs.295,096,178,722, VAT and Excise taxes of Kshs.47,717,166,529, loan redemption Kshs.13,003,682,478 and loan interest of Kshs.24,783,150,645. Collection of arrears of revenue is a continuous process and therefore as some arrears are being cleared additional debts arise through the following.

(i) Self-assessment/VAT penalties

a. When returns of income are submitted, debt is created and debited in the period of year of income for Income Tax. Applicable interest and penalties are appropriately charged.
b. Default penalties are charged on monthly basis where returns have not been submitted for VAT.

(ii) Additional assessments

Additional assessments are issued when tax audit and investigations are concluded in various tax heads.

(iii) Estimated assessments

Estimated assessments are issued when taxpayers have not submitted self-assessment returns or have not made declaration of income and tax due.

(iv) Accrual of interest

For any outstanding tax balances, interest continue to accrue at 2%per month compounded up to 100% of the outstanding principal tax.

Measures put in place to address the increase in arrears of revenue are as follows:

(i) Demand notice is issued on tax that is not in dispute
This is the effective method commonly used.

(ii) Agency Notices
This is an enforced method used to collect tax from third parties where tax payers fail to pay when demand notice is issued.

(iii) Collection by Distrait
The commissioner appoints a **Distrait** Agent who is usually an Auctioneer/Bailiff to levy distress on the assets of the tax defaulter.

(iv) Use of Caveats/Charges on the Debtors Property
Commissioner of lands creates a caveat/charge debtors' property on request by the commissioner of taxes. The caveat is not lifted until the outstanding tax is paid in full.

(v) Waiver of Interest and Penalties
Upon request by the tax payer, the Commissioner, Commissioner General or the Cabinet Secretary for The National Treasury may waive interest and penalties wholly, partly or reject depending on the mitigating factors advanced by the tax payer.

(vi) Write off/Abandonment of tax

The Cabinet Secretary for the National Treasury may write off or abandon collectable tax on recommendation by the Commissioner whereby the tax has become irrecoverable due to various reasons.

Loan Redemption and Interest Arrears

In the case of loan redemption and Interest the arrears are attributed to various institutions which have different reasons for non-repayment of loans. These include dormancy, poor financial performance, restructuring /reforms or the companies being under receivership or liquidation.

Below are initiatives put in place to address the challenges:

(i) Demand letters

The National treasury continues to demand for the amounts due and the latest demand letters are in the process of being sent to various institutions.

(ii) Categorizing Institutions

The National Treasury has categorized the institutions which are dormant, collapsed or liquidated. A detail review of each to establish the recoverability of amounts owing has been initiated with a view to seeking authority for restructuring or writing off the loans

(iii) Managing Policy Changes

Where there have been changes in law or reforms in the sector such that the loan obligations are expected to move to other institutions, efforts are being made to transfer the loan to the respective receiving entity. This is being considered in the transfer of assets and liabilities arising from the changes.

Negotiations and Restructuring

Consultative meetings between The National Treasury and the institutions with loans have been held with the view to compelling them to make good their obligations. Where there is sufficient proof that they are facing financial performance challenges, negotiation for loan restructuring is considered as an option.

(iv) Privatization

Privatization process of some of the institutions especially in the sugar sector is ongoing. It is expected that the outstanding loan arrears will be addressed through the privatization process.

(v) Selling and Recovery

Some institutions that have been put under receivership are expected to turn around to profitability and be able to meet their obligations. Where the receiver-manager is not able to turn around the institution, it is expected that on the sale of the entity, Government loans would be considered in the distribution of the proceeds.

Committee Observations and Findings

(i) **The arrears of revenue due and uncollected has significantly increased from Kshs. 194,951,716,541.16 (approximately Kshs. 195 billion) as at 30th June 2015 to Kshs.380, 600,178,374 (approximately Kshs. 381 billion) as at 30th June 2016.**

(ii) The revenue arrears balance of Kshs.380,600,178,374 as at 31st June 2016 is made up of arrears for PAYE and Other Income Tax of Kshs.295,096,178,722, arrears for VAT and Excise Taxes of Kshs. 47,717,166,529, arrears for loan redemptions of Kshs. 13,003,682,478 and arrears for loan interests of Kshs.24,783,150,645;

(iii) The year on year persistent increase in arrears of national revenue denies the national and county government the scarce financial resources that it needs to undertake their development programmes and projects. The National Treasury has not explained satisfactorily how it is addressing the persistent increase in arrears of revenue;

(iv) The Cabinet Secretary for the National Treasury and receivers of revenues for the national government entities have been granting waivers of interest and penalties and write off/abandonment of tax including tax exemption. However, full details of these waivers and exemptions have not been disclosed to the Auditor General in contravention of the provisions of Article 210 of the CoK, 2010 and Sections 76 and 82 of the PFM Act 2012. These waivers and tax exemptions (tax expenditures) lead to losses of national revenue of approximately 2.5 percent of the GDP (approximately Ksh. 200 billion annually) as per studies by KRA and World Bank; and

(v) The arrears of revenue due and uncollected of Kshs. 318 billion for the FY 2015/2016 undermines the principle of equitable sharing of revenue raised nationally between the national and county government as enshrined in Articles 202 and 203 of the Constitution of Kenya, 2010. Had these arrears been effectively collected, the ratio of revenue share between National Government and Counties would have varied in percentages

Committee Recommendations

(i) The Cabinet Secretary, National Treasury and the relevant institutions must make demonstrable efforts in collecting and accounting for tax revenue arrears for PAYE and Other Income Tax. The tax policy, reforms, & administrative measures should be geared towards collecting the arrears of revenue due and uncollected, sealing leaking revenue loopholes, providing the requisite support to SMEs entrepreneurs, leveraging on ICT to harness the country's revenue potential, and use of alternative disputes resolutions (ADR) mechanism to solve revenue related disputes.

(ii) The Cabinet Secretary, National Treasury should adopt the IPSAS accrual basis of reporting by all national government entities. IPSAS accruals basis of accounting and reporting provide a complete and reliable financial position of the Government of Kenya and address challenges in accounting and reporting of revenue thereby promoting transparency and a better understanding of financial position of the whole government.

(iii) The Cabinet Secretary for the National Treasury should within three (3) months of adoption of this report, prepare and submit to the Auditor General for audit review and subsequent reporting to Parliament, a comprehensive financial statement of tax waivers, exemptions, interest and penalties write off/abandonment for the period FY 2015/2016 to date in line with Article 210 of the CoK, 2010 and Sections 77, 80 and 82 of the PFM Act 2012.

DEVELOPMENT REVENUE

Unqualified Opinion

There was no material issues noted during the audit of this development revenue.

Committee Recommendations

The Committee commends the Accounting Officer for maintaining financial statements of development revenue accounts that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

EQUALISATION FUND

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this fund.

Committee Observations and Findings

The financial statement of the Equalization Fund received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Accounting Officer for maintaining financial statements of the Equalization Fund accounts that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

PETROLEUM DEVELOPMENT LEVY FUND

Basis for Adverse Opinion

8. Unreconciled Balances

The statement of financial position as at 30 June 2016 reflects a net financial asset balance of Kshs.5,724,613,631 comprised of cash with P.M.G balance brought forward of Kshs.5,137,458,103 and bank balance (surplus for the year) of Kshs.587,155,528. The net financial assets balance of Kshs.5,724,613,631 differs from the bank (cash book) balance of Kshs.1,649,028,601 by Kshs.4,075,585,028 of which the difference has not been explained. Further, the statement of cash flows reflects a cash and cash equivalents balance as at 30 June 2016 of Kshs.1,952,167,790 while the Fund's cash book (bank balances) shows an amount of Kshs.1,649,028,603 as at the same date thus resulting in an unexplained difference of Kshs.303,139,187. Consequently, the validity and accuracy of the net financial assets balance of Kshs.5, 724,613,631 shown in the statement of financial position as at 30 June 2016 cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that the Statement of financial position as at 30th June 2016 reflected a net financial asset balance of KShs.5,724,613,631.00 comprising of Cash with PMG balance brought forward of KShs.5,137,458,103.00 and a bank balance (surplus for the year) of KShs.587,155,528.00. The net financial assets balance of KShs.5, 724,613,631.00 differs from the bank (Cashbook) balance of KShs.1, 649,028,603.00 by KShs.4, 075,585,028.00.

Further statement of Cash-flow for year ended 30th June, 2016 reflected a cash and cash equivalent balance of KShs.1,952,167,790.20 while the funds Cashbook (bank balance) showed an amount of KShs.1,649,028,602.75 resulting to difference of KShs.303,139,187.45. The differences of KShs.4, 075,585,028.00 and KShs.303, 139,187.45 are over-casted Old balances brought forward from financial year 2013/14 and prior years.

The PDL Accounts (statement of Assets & Liabilities and Cash Flow Statements) prepared then were not adjusted downwards with the amounts transferred to the Ministry of Energy and Petroleum. In addition, ledger management system and IFMIS PMG balances were used instead of the balances as per the cashbook. This led to over casted balances.

The same has been cleared through the National Treasury taskforce on Old balances and the PDL financial statements of cash flow and the PDL statement of Assets and Liabilities as at 30th June 2017 adjusted through prior year adjustments to reflect the correct position.

Committee Observations and Findings

- **(i) Statement of financial position as at 30th June 2016 reflected a net financial asset balance of KShs.5,724,613,631.00 comprising of Cash with PMG balance brought forward of KShs.5,137,458,103.00 and a bank balance (surplus for the year) of KShs.587,155,528.00. The net financial assets balance of KShs.5, 724,613,631.00 differed from the bank (Cash book) balance of Kshs. 1,649,028,603.00 by Kshs. 4, 075,585,028.00.**
- **(ii) Statement of Cash-flow for year ended 30th June, 2016 reflected a cash and cash equivalent balance of Kshs. 1,952,167,790.20 while the funds Cashbook (bank balance) showed an amount of Kshs. 1,649,028,602.75 resulting to difference of Kshs. 303,139,187.45. The differences of KShs.4, 075,585,028.00 and KShs.303, 139,187.45 were over-casted old balances brought forward from FY 2013/14 and prior years; and**
- **(iii) The PDL Accounts (statement of Assets & Liabilities and Cash Flow Statements) prepared then were not adjusted downwards with the amounts transferred to the Ministry of Energy and Petroleum. In addition, ledger management system and IFMIS PMG balances were used instead of the balances as per the cashbook. This led to over casted balances. The same has been cleared through the National Treasury taskforce on Old balances and the PDL financial statements of cash flow and the PDL statement of Assets and Liabilities as at 30th June 2017 adjusted through prior year adjustments to reflect the correct position.**
- **(iv) The Committee marked the matter as resolved.**

CONTINGENCIES FUND

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this fund.

Committee Observations and Findings

The financial statement of the Contingencies Fund received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Accounting Officer for maintaining financial statements of the Contingencies Fund accounts that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

RAILWAY DEVELOPMENT LEVY FUND

Basis for Adverse Opinion

9. Accuracy of the Financial Statements

As indicated in the previous year's Report, the National Treasury did not prepare and submit for audit the financial statements for the Railway Development Levy Fund for the year ended 30 June 2014. The source and accuracy of balances brought forward to the financial year 2014/2015 could not be confirmed. Consequently, the opening balances for the financial year 2015/2016 were not ascertained and therefore the financial statements as a whole for 2015/2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the National Treasury initially did not prepare and submit financial statements for the financial year 2013/2014 for the Railway Development Levy Fund. This was an oversight. However, the financial statements for 2013/2014 were later prepared and forwarded to the Office of the Auditor General for review vide letter REF: AG.13/79 Vol.5/16 and a copy of the same is attached. Bank statements for 30th June 2014 and 30th June 2015 are attached to confirm opening balances for financial years 2014/2015 and 2015/2016 respectively.

Committee Observations and Findings

- **(i) The National Treasury did not prepare and submit for audit the financial statements for the Railway Development Levy Fund for the year ended 30 June 2014. The source and accuracy of balances brought forward to the financial year 2014/2015 could not be confirmed. Consequently, the opening balances for the FY 2015/2016 were not ascertained. The FY for 2013/2014 were later prepared and forwarded to the Office of the Auditor General for audit and reviewed vide letter REF: AG.13/79 Vol.5/16**
- **(ii) The Committee marked the matter as resolved.**

10. Unexplained Receipts Variation between Financial Statements and Kenya Revenue Authority Records

The statement of receipts and payments for the year ended 30 June 2016 reflects total receipts from the Kenya Revenue Authority of Kshs.17,060,928,683 during the year, while records maintained at the Kenya Revenue Authority shows a total amount of Kshs.17,273,369,562 as having been collected and transferred to the National Treasury during the period. The resultant difference of Kshs.212, 440,879 between the two sets of records has not been reconciled or explained.

Consequently, the accuracy of the receipts figure of Kshs.17, 060,928,683 for the year ended 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the statement of receipts and payments for the year ended 30th June 2016 reflects a totalreceipt of Kshs.17,060,928,683 whereas Kenya Revenue Authority shows a total amount of Kshs.17,273,369,562 as having been collected and transferred to the National Treasury resulting to a difference of Kshs.212,440,879. The difference was due to timing differences. A reconciliation statement was prepared for the two records and submitted to the Office of the Auditor General for Audit review.

Committee Observations and Findings

(i) **The statement of receipts and payments for the year ended 30th June 2016 reflected total receipts from the KRA of Kshs. 17,060,928,683 during the year, while records maintained at the KRA showed a total amount of Kshs. 17,273,369,562 as having been collected and transferred to the National Treasury during the period. The resultant difference of Kshs.212, 440,879 between the two sets of records has not been reconciled or explained.**

(ii) **A reconciliation statement was prepared for the two records and submitted to the Office of the Auditor General for audit and reviewed.**

(iii) **The Committee marked the matter as resolved.**

11. Unsupported Transfers

The statement of receipts and payments also reflects transfers to the State Department of Transport of Kshs.14, 353,521,932 made during the year under review. However, minutes of the Railway Development Levy Fund Advisory Committee approving the transfers were not made available for audit review.

Submissions by Accounting Officers

The Accounting Officer stated that the statement of receipts and payments for the year ended 30 June 2016, reflects transfers to the State Department of Transport amounting to Kshs.14, 353,521,932. The National Treasury followed the laid down procedures in releasing the funds as per the Custom and Excise Act (Railway Development Levy Fund) Regulations 2013. Approved minutes of the Railway Development Levy Fund Advisory Committee approving the transfers has since been availed for Audit review.

Committee Observations and Findings

(i) **The submission by the Accounting Officer that the Approved minutes of the Railway Development Levy Fund Advisory Committee approving the transfers were availed for audit and reviewed was persuasive and the latter position was confirmed by the Auditor General.**

(ii) **The Committee marked the matter as resolved.**

RURAL ENTERPRISE FUND

Basis for Disclaimer of Opinion

12. Uncleared Balances

Following the winding up of the Rural Enterprise Fund through Legal Notice No. 97 dated 29 June 2012; outstanding cash balances in the Fund were to be paid into the Consolidated Fund. However, the National Treasury has not yet closed the Fund's books of account despite the Legal Notice and has continued to prepare and submit the Fund's financial statements for audit. The Fund's statement of financial position as at 30 June 2016 presented for audit continue to reflect a total balance of Kshs.397,908,774 under financial assets made up of balances of Kshs.394,559,879 and Kshs.3,348,895 against Account Receivables-Loanees and Bank Balances respectively. The Bank Balances, according to Note (1) to the financial statements, are represented by Cash with DC (Loans Repaid)- Kshs.1,951,921, Cash with DC (Interest on Loans)- Kshs.108,840 and Cash in the DC'S Miscellaneous Deposit Account- Kshs.1,288,135. However, bank certificates and cashbook records to confirm the balances as at 30 June 2016 were not provided for verification.

13. Unresolved Prior Years Matters

A review of the unsatisfactory matters highlighted in the report for 2014/2015 revealed that they remained unresolved during the year 2015/2016 as indicated below:

13.1 Loan Beneficiaries

The statement of assets and liabilities as at 30 June 2013 and 2014 respectively reflected a loan balance of Kshs.394,559,879, which included an amount of Kshs.220,013,037 that had not been analyzed to show the names of borrowers, amounts borrowed and those outstanding. Consequently, and in absence of the analysis, the completeness and correctness of the balance of Kshs.394, 559,879 as at 30 June 2013 and 2014 could not be ascertained. Further, no interest on the loans outstanding as at 30 June 2013 and 2014 were accrued in the accounts.

13.2 Unbanked Cash

The statement also reflected unbanked cash balances totaling Kshs.3, 348,895, brought forward from 2012/2013 and earlier years. According to information available, the total amount comprised Kshs.1, 951,921 representing cash with DC (Loans Repaid); Kshs.108, 840 Cash with DC (Interest on Loans); and Kshs.1, 288,135 relating to Cash in the DC'S Miscellaneous Deposit Account.

Further, there was no evidence to confirm actual existence of the balance of Kshs.3, 348,895 at the DC's Office. In addition, the balance of Kshs.1, 951,921 under DC (Loans Repaid) included advances amounting to Kshs.207, 344 in form of IOUs issued from the Fund to some five officers working at the DC's Office, Kisumu in 1997/1998. The IOUs had not, however, been surrendered as at 30 June 2014.

13.3 Unreconciled Balance

The statement of assets and liabilities for deposits 07 as at 30 June 2013 reflected a debit balance of Kshs.1, 828,388 in respect of the Fund, while the Fund Accounts for the same year reflected a balance of Kshs.397, 908,774 against the item. The significant difference of Kshs.396, 080,387 between the two sets of records has not been reconciled or explained.

Submission by Accounting Officer

Paragraph 12-13: Uncleared Balances and Unresolved Prior Years Matters

The Accounting Officer stated that the National Treasury has not yet closed Funds Books of Account despite the Legal Notice and has continued to prepare and submit the Funds Financial Statements for audit.

Also, it is true the Funds Statements of financial position as at 30 June 2016 presented for audit continue to reflect a total amount of Kshs.397,908,774.30 under financial assets made up of balances of Kshs.394,559,879.30, kshs.1,951,920.60, Kshs.108,839.70, Kshs.1,288,134.70 against Account Receivables-Loanees, Cash with D.C.(Loans Repaid), Cash with D.C. (Interest on Loans) and Cash in the DC'S Miscellaneous Deposit Account respectively.

This fund was established in 1992 through legal Notice No. 109 to:-

(i) Provide loan facilities to individuals or groups of individuals in rural areas to assist them in expansion and growth of informal and small-scale enterprises through provision of resources for initial investment and working capital

(ii) Increase the productive capacity of the borrowers by creating income and employment generating opportunities.

This Fund was wound up Vide Legal notice No 119 of the 14th November, 2012. The process of closing the books of accounts through requesting for a write off is ongoing.

Committee Observation and Finding

(i) The Rural Enterprise Fund was wound up vide legal notice no.119 of 14th November, 2012. However, the National Treasury is in the process of closing the books of accounts through requesting for a write-off.

(ii) The Committee marked the matter as unresolved.

Committee Recommendation

The Cabinet Secretary for the National Treasury should finalize the winding up of the Fund and submit the winding up report in line with the PFM Act and Regulation 209 of the PFM (National Government) Regulations 2015.

STATE OFFICERS AND PUBLIC OFFICERS MOTOR CAR LOAN SCHEME FUND

Basis for Disclaimer of Opinion

14. Accuracy of the Financial Statements

The State Officers and Public Officers Motor Car Loan Scheme Fund are established through Legal Notice No. 195 dated 8 September 2015 under the Public Finance Management Act, 2012. Information available indicates that the initial capital of the Fund of Kshs. 1,000,000,000 appropriated by Parliament in the financial year 2014/2015 was credited into the Fund account held at the Central Bank of Kenya on 25th August 2015. An additional amount of Kshs. 985,000,000 was credited into the Fund account on 23 May 2016 bringing the total amount to Kshs. 1,985,000,000. However, the receipts are not reflected in the statement of income and expenditure which instead reflects nil receipts for the year ended 30 June 2016. Similarly, the statement of changes in equity for the year ended 30 June 2016 reflect a balance brought forward on 1 July 2015 of

Kshs.1,000,000,000. However, as observed above, this amount was transferred to the Fund account on 25 August 2015. The accuracy of the financial statements prepared and submitted for audit is, therefore, doubtful.

Submission by Accounting Officer

The Accounting Officer stated that the Financial Statement initially did not have a statement of Income and Expenditure for the year ended 30th June 2016. In addition, the statement of changes in Equity for the year ended 30th June 2016 reflected a balance brought forward of KShs.1, 000,000,000/=. These two were omissions and the financial statements were amended to correct the same. The amended statements were forwarded for audit review.

Committee Observations and Findings

(i) **The financial statement for The State Officers and Public Officers Motor Car Loan Scheme Fund submitted for audit did not have a statement of Income and Expenditure for the year ended 30th June 2016;**

(ii) **The statement of changes in equity for the Funds for the year ended 30th June 2016 reflected a wrongbalance brought forward of Kshs. 1,000,000,000/=;**

(iii) **These two were omissions and the financial statements were amended to correct the same. The amended statements were forwarded for audit review.**

(iv) **The Committee marked the matter as resolved.**

15. Unsupported Bank Balance

The statement of financial position reflects cash and cash equivalents (bank) balance of Kshs.1, 985,000,000 as at 30 June 2016. However, the balance has not been supported by a bank reconciliation statement and certificate of bank balance as at 30 June 2016. Under the circumstances, the completeness, existence and accuracy of the balance of Kshs.1, 985,000,000 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the Statement of Financial Position reflects cash and cash equivalent (Bank) balance of KShs.1,985,000,000/= as at 30th June 2016. Copies of certificate of bank balance, Cashbook and bank reconciliation to support the same have since been forwarded for audit review.

Committee Observations and Findings

(i) **The statement of financial position reflects cash and cash equivalents (bank) balance of Kshs.1, 985,000,000 as at 30 June 2016. However, the balance was not been supported by a bank reconciliation statement and certificate of bank balance as at 30 June 2016.**

(ii) **The Accounting Officer stated that the Statement of Financial Position reflects cash and cash equivalent (Bank) balance of KShs.1,985,000,000/= as at 30th June 2016. Copies of certificate of bank balance, Cashbook and bank reconciliation to support the same have since been forwarded for audit and reviewed.**

(iii)The Committee marked the matter as resolved.

16. Failure to adhere to the Guidelines

The statement of financial position submitted does not bear the signatures of the Accounting Officer and the Administrator of the Fund. This is contrary to the guidelines issued by the Public Sector Accounting Standards Board, pursuant to the provisions of Section 194 of the Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer stated that the financial statement initially submitted for audit review did not have signatures on all the statements but had only two signatures under the approval of the financial Statement certificate. This was an oversight. The financial statements were amended and all the relevant pages signed by the Accounting Officer and the Administrator of the Fund and submitted for audit review.

Committee Observations and Findings

(i) The statement of financial position submitted does not bear the signatures of the Accounting Officer and the Administrator of the Fund. This was contrary to the guidelines issued by the PSASB pursuant to the provisions of Section 194 of the PFM Act, 2012. According to the accounting officer, this was an oversight. The financial statements were amended and all the relevant pages signed by the Accounting Officer and the Administrator of the Fund and submitted for audit review.

(ii) The Committee marked the matter as resolved.

GOVERNMENT CLEARING AGENCY FUND

Basis for Disclaimer of Opinion

17. Unsupported Debtors and Creditors Balances

The statement of financial position as at 30 June 2016 reflects balances of Kshs. 300,931,776 and Kshs. 52,973,897 under Accounts Receivables - Debtors and Accounts Payables - Creditors respectively. However, these balances have not been supported with verifiable records and documents including debtors and creditors registers. Specifically, the creditors' balance has not been supported with contracts, local purchase/service orders, invoices and delivery notes with the result that the accuracy, completeness and validity of the balance could not be ascertained. Further, the debtor's balance of Kshs. 303,931,776 is net of a Clearance Account balance of Kshs.654, 000,000 which, has also not been supported with any verifiable documents making it difficult to ascertain what it represents.

Submission by Accounting Officer

The Accounting Officer stated that the statement of financial position as at 30 June 2016 for the Government Clearing Agency Fund reflects balances of Kshs. 300,931,776.15 and Kshs.52,973,896.80 under Accounts Receivables – Debtors and Accounts Payables – Creditors respectively. Further, the debtor's balance of Kshs.303, 931,776.15 is net of a clearance Account balance of Kshs. 654,000,000.00 which has not been supported with relevant analysis and verifiable documents. The Accounts Receivables – Debtors of Kshs.300,931,776.15, Accounts Payables – Creditors of Kshs.52,973,896.80 and the Clearance balance of Kshs.654,000,000.00 are balances carried forward for many years and the National Treasury formed a taskforce to address issues of old balances appearing in MDAs books of Accounts with a view of clearing the same. The task force has not fully completed its work due to lack of supporting documents.

Committee Observations and Findings

(i) The statement of financial position as at 30th June 2016 reflected balances of Kshs. 300, 931,776 and Kshs. 52,973,897 under Accounts Receivables - Debtors and Accounts Payables - Creditors respectively. However, these balances were not been supported with verifiable records and documents including debtors and creditors registers; and

(ii) The Accounts Receivables-Debtors of Kshs. 300,931,776.15, Accounts Payables – Creditors of Kshs. 52,973,896.80 and the Clearance balance of Kshs. 654,000,000.00 are balances carried forward for many years and the National Treasury formed a taskforce to address issues of old balances appearing in MDAs books of Accounts with a view of clearing the same

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is waiting the finalization of the report by theTask force appointed to clear old balances. Further, the Accounting Officer should ensure that theTask force appointed to clear old balances concludes its work within the timelines as per reccomendation of PAC report on FY 2014/2015.

18. Unsupported Fund and Paymaster General Balances

The statement of financial position also reflects a brought forward Fund balance of Kshs.2,147,492 and a Paymaster General (PMG) overdraft balance of Kshs.245,810,387 which, as in the previous instance, have not been supported with verifiable documents including a bank balance confirmation certificate and bank reconciliation statement. As a result, the accuracy and validity of the balances cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the statement of financial position also reflects a brought forward Fund balance of Kshs.2,147,492.05 and a paymaster General (PMG) balance of Kshs.245,810,387.30 which as in the previous instance, have not been supported with verifiable documents including a bank balance confirmation certificate and bank reconciliation statement. These are both aggregates of old balances that have been carried forward for very many years. This is a historical problem that affects the whole Government and Treasury formed a taskforce to address issues of old balances appearing in Ministries' Departments and Agencies books of Accounts.

This Account was operated within the Ministry of Finance Deposit bank Account. It did not have a separate bank account and this is the reason as to why no separate Certificate of bank balance was availed.The task force has faced the challenge in documentation but every effort is being done to ensure the process is done in a prudent manner**.** Waiting for the conclusion by the Task force.

Committee Observations and Findings

(i) **Statement of financial position also reflected a brought forward Fund balance of Kshs. 2,147,492 and a Paymaster General (PMG) overdraft balance of Kshs. 245,810,387 which, as in the previous instance, have not been supported with verifiable documents including a bank balance confirmation certificate and bank reconciliation statement; and**

(ii) **These are both aggregates of old balances that have been carried forward for very many years. This is a historical problem that affects the whole Government and Treasury formed a taskforce to address issues of old balances appearing in Ministries' Departments and Agencies books of Accounts.**

(iii) **The Committee marked the matter as resolved**.

THE TREASURY MAIN CLEARANCE FUND

Basis for Qualified Opinion

19. Accounts Receivables- Debtors

The Treasury Main Clearance Fund statement of financial position as at 30 June 2016 reflects an accounts receivables-debtors balance of Kshs.12,503,607,446, which includes an amount of Kshs.2,332,170,394 (as summarized below), that has not been analyzed:

Description of Account	**Balance (Kshs)**
003- National Treasury	7,913,690
013- Police Headquarters	170,879
019-O.O.P-Imigration Department	433,000
021- Pension Department	(21,572,020)
032- Remittance to Crown Agent	2,341,896,518
049- Ministry of Planning	1,712,109
054-Remittance to Karachi Agent	132,319
055-Remittance to Bombay Agent	454,920
058-Flourspar Company Ltd	1,028,978
Total	**2,332,170,394**

Consequently, the completeness and accuracy of the balance could not be ascertained. Further, no reason has been provided for the inordinate delay in recovery of debts totaling Kshs.12,503,607,446 which have been due for many years.

20. Accounts Payables- Creditors

The statement of financial position also reflects an accountpayable- creditors balance of Kshs.12,490,478,941, which includes amounts of Kshs.523,686 under PMG Special Account, Kshs.2,285,511,054 under Advance Deposits, Kshs.29,963,831 under Advance Deposits – Ministry of Information and Communications and Kshs.93,455 under JCF Interest all brought forward from 2014/2015 and earlier years. However, and as reported in the previous years, these amounts have not been analyzed or supported with relevant documents. Consequently, the completeness and accuracy of the creditor's balance of Kshs.12, 490,478,941 as at 30 June 2016 could not be ascertained.

21. Deficit Balance Brought Forward

The statement of financial position further reflects a brought forward balance of Kshs.(871,495) which as reported in the previous year differs from the calculated balance of Kshs.2,949,863 being the difference between the amounts received totaling Kshs.10,174,386,915 and the payments made totaling Kshs.10,171,437,051 captured in underlying records. The difference has not been reconciled or explained thus casting doubt on the accuracy of the Treasury Main Clearance Fund statement of financial position as at 30 June 2016

Submission by Accounting Officer

Paragraph 19- 21: Accounts Receivables- Debtors, Accounts Payables- Creditors and Deficit Balance Brought Forward

The fund was established under the Revised Financial Orders of 1968 editions "Funds outside the Supply System" 8.1.3 section C in the Exchequer and Audit Act, Cap.412 to facilitate overseas payments in foreign currency in respect of Government Imports and Pension payments through crown agents in U.K. This is a dormant fund and a task force on the winding up of dormant funds was established. This fund is in the process of being wound up through the taskforce that is ongoing.

Committee Observations and Findings

(i) This is a dormant fund and a task force on the winding up of dormant funds was established. This fund is in the process of being wound up through the taskforce that is ongoing.
(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is waiting the finbalization of the report by theTask force appointed to clear old balances. Further, accounting officer should ensure that theTask force appointed to clear old balances concludes its work within the timelines as per reccomendation of PAC report on FY 2014/2015

22. Winding Up of the Fund

Although the Treasury Main Clearance Fund is in the process of being wound up in line with the Public Accounts Committee recommendations and Treasury instructions on the requirement to wind up dormant Funds, evidence showing the extent, to which the winding up process of the Fund had reached as at 30 June 2016 was not presented for audit. As a result, it has not been possible to ascertain the status of the Fund.

Submissions by Accounting Officer

The Accounting Officer stated that the Treasury Main Clearance Fund is in the process of being wound up in line with the Public Accounts Committee recommendations and the Treasury instructions on the requirement to wind up dormant Funds. A Committee on Dormant Funds was appointed and the fund is in the process of being wound up among other dormant funds. Outstanding until winding up process is concluded.

Committee Observation and Finding

The Treasury Main Clearance Fund is in the process of being wound up in line with the Public Accounts Committee recommendations and Treasury instructions on the requirement to wind up dormant Funds.

Committee Recommendation

The Cabinet Secretary, National Treasury should complete the winding up of the Fund report in line with section 24 (8) of the PFM Act, 2012 and Regulation 209 of the PFM (National Government) Regulations 2015.

DONOR FUNDED PROJECTS

FINANCIAL SECTOR SUPPORT PROJECT (IDA CREDIT NO. 5627- KE)

Basis for Adverse Opinion

23. The statement of receipts and payments reflects payments totaling Kshs. 39,359,013 which differ from the National Treasury's ledger expenditure of Kshs.48,785,710 and the total expenditure balance of Kshs.39,414,281 reflected by payment vouchers for the year ended 30 June 2016. The differences between the three set of records have not been reconciled or explained.

Submission by Accounting Officer

The Accounting Officer stated that the project management did reconcile the payments, Ministry's ledger and payment vouchers. Subsequently, the project financial statements were amended to reflect the changes made from the reconciliations and the amended financial statements were submitted to the auditor general on 16th May 2017 for review. Further, the same reconciliations were incorporated in the subsequent year (FY2016/17) as required by IPSAS.

Committee Observations and Findings

(i) **The statement of receipts and payments reflects payments totaling Kshs. 39,359,013 which differ from the National Treasury's ledger expenditure of Kshs. 48,785,710 and the total expenditure balance of Kshs. 39,414,281 reflected by payment vouchers for**

the year ended 30 June 2016. The differences between the three set of records were not been reconciled or explained at the time of audit; and

(ii) The project financial statements were amended to reflect the changes made from the reconciliations and the amended financial statements were submitted to the auditor general on 16th May 2017 for review. Further, the same reconciliations were incorporated in the subsequent year (FY2016/17) as required by IPSAS.

(iii)The Committee marked the matter as resolved.

24. The statement of financial assets reflects under Note 8.2 a bank balance of Kshs.111, 223,370 as at 30 June 2016 which differs from the bank's certificate balance of Kshs.124, 770,240 and the cash book bank balance of Kshs.101, 040,133 reflected on the same date. The differences between the three set of records have, similarly, not been reconciled or explained.

Submission by Accounting Officer

The Accounting Officer stated that the statement of financial assets reflected under Note 8.2 a bank balance of Kshs.111, 223,370.00 as at 30 June 2016 which differs from the bank's certificate balance of Kshs.124, 770,240 and the cash book bank balance of Kshs.101, 040,133 reflected on the same date. The project management did reconcile the bank balance, bank certificate and cash book amounts. Subsequently, the project financial statements were amended to reflect the changes made from the reconciliations and the amended financial statements were submitted to the auditor general on 16th May 2017 for review. Further, the same reconciliations were incorporated in the subsequent year (FY2016/17) as required by IPSAS**.**

Committee Observations and Findings

(i) The statement of financial assets reflected under Note 8.2 a bank balance of Kshs.111, 223,370.00 as at 30 June 2016 which differed from the bank's certificate balance of Kshs.124, 770,240 and the cash book bank balance of Kshs. 101,040,133 reflected on the same date; and

(ii) The project management did reconcile the bank balance, bank certificate and cash book amounts. Subsequently, the project financial statements were amended to reflect the changes made from the reconciliations and the amended financial statements were submitted to the auditor general on 16th May 2017 for review. Further, the same reconciliations were incorporated in the subsequent year (FY2016/17) as required by IPSAS

(iii)The Committee marked the matter as resolved.

GLOBAL FUND PROGRAM TO STEER THE COUNTRY TOWARDS ACHIEVEMENT OF THE TB MILLENNIUM DEVELOPMENT GOALS IN LINE WITH THE GLOBAL STOP TB STRATEGY (GRANT NO. KEN- S11- G12-T) PROJECT

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this Project.

Committee Observations and Findings

The Global Fund Program to Steer the Country towards Achievement of the TB Millennium Development Goals in line with the Global Stop TB Strategy (Grant No. Ken- S11- G12-T) Project received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Program Team for Global Fund Program to Steer the Country towards Achievement of the TB Millennium Development Goals in line with the Global Stop TB Strategy (Grant No. Ken- S11- G12-T) for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

INFRASTRUCTURE FINANCE AND PUBLIC PRIVATE PARTNERSHIPS PROJECT (IDA CREDIT NO.5157 KE)

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this Project.

Committee Observations and Findings

The Infrastructure Finance and Public Private Partnerships Project (IDA CREDIT NO.5157 KE) received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Project Team for the Infrastructure Finance and Public Private Partnerships Project (IDA CREDIT NO.5157 KE) for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

PUBLIC FINANCIAL MANAGEMENT REFORMS PROGRAM

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this Project.

Committee Observations and Findings

The Public Financial Management Reforms Program received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Project Team for the Public Financial Management Reforms Program for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

GLOBAL FUND PROGRAM FOR EXPANDING HIV PREVENTION, CARE AND TREATMENT SERVICES TO REACH UNIVERSAL ACCESS (80% COVERAGE) TO REDUCE BOTH INCIDENCE AND THE ASSOCIATED IMPACT (GRANT NO. KEN-HMOF)

Basis for Qualified Opinion

25. The statement of receipts and payments reflects under other grants and transfers an expenditure of Kshs. 27,420,217 being amount transferred to the Kenya Country Coordinating Mechanism. However, expenditure returns showing how the amount was utilized by the recipient were not made available for audit verification. Under the circumstances, the propriety of the expenditure of Kshs. 27,420,217 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that at the time of audit the payment vouchers to support Kshs.27,420,217 released to the KCCM were not availed to the auditor since the same had not been received from Ministry of Health. However, the same were received and forwarded to the auditor for audit review.

Committee Observations and Findings

(i) **The statement of receipts and payments reflects under other grants and transfers an expenditure of Kshs. 27,420,217 being amount transferred to the Kenya Country Coordinating Mechanism. However, expenditure returns showing how the amount was utilized by the recipient were not made available for audit verification. However, the same were later received and forwarded to the auditor for audit review**

(ii) **The Committee marked the matter as resolved.**

STUDY AND CAPACITY BUILDING FUND PROJECT (CREDIT NO. CKE 6015 01 K)

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this Project.

Committee Observations and Findings

The Study And Capacity Building Fund Project (CREDIT NO. CKE 6015 01 K) received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Project Team for the Study and Capacity Building Fund Project (CREDIT NO. CKE 6015 01 K) for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

TECHNICAL SUPPORT PROGRAMME PROJECT (KE/FED/2009/021421)

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this Project.

Committee Observations and Findings

The Technical Support Programme Project (KE/FED/2009/021421) received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Project Team for the Technical Support Programme Project (KE/FED/2009/021421)) for maintaining financial statements that present fairly, in all

material respects, the financial position as at 30th June 2016, and of its operations for the year.

KENYA PETROLEUM TECHNICAL ASSISTANCE PROJECT (IDA CREDIT NO.5526KE)

Basis for Qualified Opinion

26. The statement of financial assets reflects a bank balance of Kshs.12, 745,464 as at 30 June 2016 which differs with the bank's certificate balance of Kshs.14, 817,131 and the cashbook bank balance of Kshs.11, 956,622 as at the same date. The differences between the three set of records have not been reconciled or explained casting doubt on the accuracy of the financial statements.

Submission by Accounting Officer

The Accounting Officer submitted that the project Management did reconcile the bank balance, bank certificate and the cash book resulting in the amendment of the project financial statements to reflect the changes made from the reconciliation exercise. The amended financial statements were submitted to the Auditor General on 16th May 2017 for review.

The reconciliation was also incorporated when preparing Financial Year 2016/2017 Financial Statement as required by IPSAS.

Committee Observations and Findings

- **(i) The project Management did reconcile the bank balance, bank certificate and the cash book resulting in the amendment of the project financial statements to reflect the changes made from the reconciliation exercise. The amended financial statements were submitted to the Auditor General on 16th May 2017 for review; and**
- **(ii) The reconciliation was also incorporated when preparing Financial Year 2016/2017 Financial Statement as required by IPSAS.**
- **(iii)The Committee marked the matter as resolved.**

MICRO FINANCE SECTOR SUPPORT CREDIT PROJECT (CREDIT NO. CKE 300401 E)

Basis for Qualified Opinion

27. The statement of receipts and payments reflects an expenditure of Kshs. 4,680,740 under purchase of goods and services in respect of an amount paid to a local firm for provision of impact assessment consultancy services which were contracted on 23rdFebruary 2012 at a sum of Kshs.5, 850,924. The expenditure of Kshs.4, 680,740 comprised of 30%, 40% and 10% of the contract sum of Kshs. 5,850,924 in respect of inception report, first and second progress reports respectively by the consultant. However, details showing how the consultant was identified and the fees determined were not made available for audit verification. Further, the first and second progress reports upon which the 30% and 40% payments of the contract sum of Kshs. 5,850,924 were based have not been provided for audit review. Under the circumstances, the propriety of the expenditure of Kshs.4, 680,740 could not be confirmed.

Submission by Accounting Officer

The statement of receipts and payments reflects an expenditure of **Kshs. 4,680,740** under purchase of goods and services in respect of an amount paid to a local firm for provision of impact assessment consultancy services which were contracted on 23 February 2012 at a sum of Kshs.5, 850,924. The expenditure of **Kshs.4, 680,740** comprised of 30%, 40% and 10% of the contract sum.

At the time of audit, tender documents and progress report were not availed for audit review however Ministerial Tender Committee minutes and contract documents to show how the consultant was identified and impact assessment progress report were later availed for audit review.

Committee Observations and Findings

(i) **Statement of receipts and payments reflects an expenditure of Kshs. 4,680,740 under purchase of goods and services in respect of an amount paid to a local firm for provision of impact assessment consultancy services which were contracted on 23rd February 2012 at a sum of Kshs.5, 850,924;**

(ii) **The expenditure of Kshs.4, 680,740 comprised of 30%, 40% and 10% of the contract sum. At the time of audit, tender documents and progress report were not availed for audit review however Ministerial Tender Committee minutes and contract documents to show how the consultant was identified and impact assessment progress report were later availed for audit review.**

(iii) **The Committee marked the matter as resolved.**

GLOBAL FUND FOR SCALING UP MALARIA CONTROL INTERVENTIONS FOR IMPACT PROJECT (GRANT NO. KEN-011-G13-M)

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this Project**.**

Committee Observations and Findings

The Global Fund For Scaling Up Malaria Control Interventions For Impact Project (GRANT NO. KEN-011-G13-M) received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Project Team for the Global Fund for Scaling up Malaria Control Interventions for Impact Project (GRANT NO. KEN-011-G13-M)for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

PROGRAMME FOR RURAL OUTREACH OF FINANCIAL INNOVATIONS AND TECHNOLOGIES (IFAD LOAN NO.814KE & GRANT NO.1218 KE)

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this Project.

Committee Observations and Findings

The Programme for Rural Outreach of Financial Innovations and Technologies (IFAD LOAN NO.814KE & GRANT NO.1218 KE) received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Team for the Programme for Rural Outreach of Financial Innovations and Technologies (IFAD LOAN NO.814KE & GRANT NO.1218 KE) for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

CONSOLIDATED FUND SERVICES CONSOLIDATED FUND SERVICES - PUBLIC DEBT - VOTE R-050

Basis for Adverse Opinion

28. Unexplained Differences

The statement of receipts and payments, under the finance cost-loan interest item reflects payments amounting to Kshs.167,885,514,356, which includes interest on domestic borrowings (Non-Government units) of Kshs.124,779,531,719. The trial 13 balance, however reflects a balance of Kshs.124,283,147,016 under the same item. The resultant difference of Kshs.496,384,703 has not been reconciled or explained. In the circumstances, the accuracy and completeness of the interest on domestic borrowings (Non-Government Units) included in the finance costs could not be ascertained.

Submission by Accounting Officer

The statement of receipts and payments under finance costs reflects a balance of Kshs.167,885,514,356 which includes interest on domestic borrowing from other Government units of Kshs.124,779,531,719.00 and interest on Pre – 1997 Government old loan of Kshs.793,952,431.00. The two payments on domestic borrowing amounts to Kshs. 125,573,484,150.00, which is in agreement with the ledger and trial balance.

Committee Observations and Findings

- **(i) The statement of receipts and payments, under the finance cost-loan interest item reflects payments amounting to Kshs.167, 885,514,356, which includes interest on domestic borrowings (Non-Government units) of Kshs.124, 779,531,719.**
- **(ii) The trial balance however reflected a balance of Kshs.124, 283,147,016 under the same item. The resultant difference of Kshs.496, 384,703 was not reconciled or explained**
- **(iii)The Committee marked the matter as resolved.**

29. Prior Year Adjustments

The statement of financial position as at 30 June 2016 reflects comparative balances which have been restated and therefore differs from those reflected in the audited financial statements for 2014/2015. The restated balances are analyzed below.

No.	Item Description	Audited	Balance as at	Adjustment

		Financial Statement Balances 2014/2015	30.06.2016	Difference
1	Finance costs	172,693,199,416	152,447,586,634	20,245,612,782
2	Principal Repayment	245,463,328,931	264,016,325,854	(18,552,996,923)
3	Other Payments	0	1,174,271	(1,174,271)
4	Bank Balance	(37,871,353)	126,415,953	(164,287,306)
5	Receivables	0	91,565,685,447	(91,565,685,447)
6	Accounts Payable	0	27,654,564,640	(27,654,564,640)
7	Fund balance Brought Forward	(257,687,919)	86,445,236,805	(86,702,924,724)
8	Deficit for the Year	(1,922,097,175)	(230,655,587)	(1,691,441,588)
9	Prior Year Adjustments	257,687,919	(22,177,044,458)	(22,434,732,377)
10	Difference	1,884,225,822	0	1,884,225,822

The management has however not provided analysis of the prior year adjustments and supporting documents to justify the re-stated figures as indicated in the table above. The accuracy of the restated balances could not therefore be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that the Statement of the financial position as at 30 June 2016 reflects comparative balances which have been restated and therefore differs from those reflected in the audited financial statements for 2014/2015. The analysis has been done and submitted for audit review.

Committee Observations and Findings

- **(i) The Statement of the financial position as at 30 June 2016 reflected comparative balances which have been restated and therefore differed from those reflected in the audited financial statements for 2014/2015. The analysis was later done and submitted for audit review.**
- **(ii) The Committee marked the matter as resolved.**

30. Bank Balance

The statement of financial position and the reconciliation statement reflect bank balance of Kshs.757, 875,107 as at 30 June 2016. The bank reconciliation statement, however, includes items which have been outstanding for long and have not been cleared, as detailed below.

(i) **Payments in Cashbook not in Bank Statement**

The reconciliation statement shows payments in cashbook not in the bank statement of Kshs.35, 248,811,289. Included in the amount are payments which have not been presented to the bank for more than six months, totaling Kshs.4, 127,641,248, and are therefore not payable as analyzed below:

Date	Reference	Particulars	Amount Kshs.
23.02.2015	CBK Redemption	Direct Debit	2,239,955
30.06.2015	CBK Call up	Direct Debit	115,783
09.09.2015	CBK Call up	Direct Debit	4,121,866,924
09.11.2015	CBK Call up	Direct Debit	1,351,004
30.11.2015	Adverts No. 016	Direct Debit	1,888,392
29.06.2015	PA 101514	Direct Debit	179,190
Total			**4,127,641,248**

The payments also include cashbook under cast of Kshs.2, 000,000 which has not been adjusted.

Submission by Accounting Officer

(i) Payments in cashbook not in the bank statements – Ksh.35,248,811,289.40

The accounting officer stated that amount of Ksh. 35,248,811,289.00 was outstanding at the time of audit. The outstanding items were marched against corresponding items in the bank and the whole amount has since been cleared. **Resolved**

(ii) Payments in the Bank Statement not in the Cashbook

The bank reconciliation statement also reflects payments in the bank statement not in the cashbook totaling Kshs.33, 251,179,668. Included in the balance are payments totaling Kshs.8, 793,521,733 which relate to 2014 and 2015 financial years. The particulars of each transaction are either CBK direct debt or account transfers. The transactions have not been identified and recorded in the cashbook.

Submission by Accounting Officer

The Accounting Officer stated that the bank reconciliation statement also reflected payments in the bank statement not in the cash book totaling Kshs.33, 251,179,668. The outstanding items were marched against corresponding items in the cash book and Kshs. 32,836,569,958 has since been cleared. A letter has been written to Central Bank of Kenya requesting them to provide details of the remaining credits of Kshs.414, 609,710.30.

Committee Observations and Findings

The statement of financial position and the reconciliation statement reflect bank balance of Kshs.757, 875,107 as at 30th June 2016. The bank reconciliation statement, however, included items which have been outstanding for long and have not been cleared.

- **(i) The explanation by the Accounting Officer was satisfactory. However, the matter is pending until CBK provide details of the remaining credits of Kshs. 414, 609,710.30.**
- **(ii) The Committee marked the matter as unresolved.**

Committee Recommendations

Accounting officers must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

31. Un-supported Balances

(i) The statement of financial position, under the comparative balances, reflects receivables balance of Kshs.91, 565,685,447 which relates to exchequer under-issues accumulated over the years. The amount was cleared during the period under review. However, the clearance of the balance has not been supported or explained.

Submission by Accounting Officer

The Accounting Officer stated that receivables balance of Kshs. 91,565,685,447.00 is the cumulative exchequer under issues as at 30th June, 2015. The amount was carried in the statements erroneously since the budgets expired at the end of the respective years. The amount was therefore cleared from the books.

Further, the statement of financial position reflects accounts payable (deposits and retentions) balance of Kshs.27, 652,471,202. The analysis of the balance, showing the composition was provided but no documentary evidence was availed to support the items in the analysis to enable audit verification. As such, the accuracy of the account payables (deposits and retentions) balance could not be confirmed.

The accounting officer stated that the amount of Kshs.27, 652,471,202 was analyzed but the documentary evidence was not provided at the time of audit. However, the documents have since been provided for audit review.

Committee Observations and Findings

- **(i) The statement of financial position, under the comparative balances, reflects receivables balance of Kshs.91, 565,685,447 which relates to exchequer under-issues accumulated over the years. The amount was cleared during the period under review.**
- **(ii) The Accounting Officer stated that the amount of Kshs.27, 652,471,202 was analyzed and the documents have since been provided for audit and reviewed.**
- **(iii)The Committee marked the matter as resolved**.

32. Differences between Financial Statements and Loan Register Balances

Comparisons of the balances as at 30 June 2016 reflected in the statement of outstanding public debt and the loans register in respect of three hundred and ninety (390) loans shows that the amounts in the two records do not tally. According to the financial statements, balances totaling Kshs.1,545,345,244,346 listed in the statement of public debt differs with the total of Kshs.15,031,630,560 recorded in the loans register as outstanding against these loans by unexplained difference of Kshs.1,530,313,613,786.

Submission by Accounting Officer

Comparisons of the balances as at 30th June 2016 reflected in the statement of outstanding public debt and the loans register in respect of three hundred and ninety loans shows that the mounts in the two records do not tally. Since then the records relating to three hundred and ninety loans in question have been analyzed and reconciled. The manual registers and the Common Wealth Secretariat-Debt Recording and Management System-(CS-DRMS) have continuously been updated and are now in agreement. The registers are available for audit verification.

Committee Observations and Findings

- **(i) Comparisons of the balances as at 30th June 2016 reflected in the statement of outstanding public debt and the loans register in respect of three hundred and ninety loans shows that the mounts in the two records do not tally. Since then the records relating to three hundred and ninety loans in question have been analyzed and reconciled.**
- **(ii) The manual registers and the Common Wealth Secretariat-Debt Recording and Management System-(CS-DRMS) have continuously been updated and are now in agreement. The registers were availed for audit verification.**
- **(iii)The Committee marked the matter as resolved.**

33. Un-reconciled Balances

(i) As reported in the previous year, the statement of outstanding debt as at 30 June 2015 reflected a balance of Kshs. 26,615,000,000 relating to Pre-1997 Government Overdraft debt. The opening balance for this item was Kshs.28,273,000,000 as at 1July 2014, and a repayment of Kshs.1,110,000,000 was made during 2014/2015 as per the loan agreement between Government of Kenya and the Central Bank of Kenya. The closing balance as at 30 June 2015, therefore, ought to have been Kshs. 27,163,000,000 and not Kshs. 26,615,000,000. The resultant difference of Kshs.548, 000,000 has not been explained to date.

Submission by Accounting Officer

The reconciliation exercise between The National Treasury and Central Bank of Kenya has been done to reflect the correct closing balance of Kshs.26,668,755,685.50 and is supported by a Loan amortization schedule. The difference observed by the auditor is because he is using the net value and not the face value. The balance was confirmed through reconciliation between the National Treasury and Central Bank of Kenya staff and a letter of confirmation of these balances from CBK was availed.

In addition, the statement of outstanding public debt, as at 30 June 2015 showed treasury bills balance of Kshs.318,928,150,000 The recalculated balance was, however, Kshs.290,059,760,051 as indicated below resulting into a difference of Kshs.28,868,389,949, which has not been investigated nor explained to date.

Description	**Amount Kshs.**
Opening Balance	299,406,150,000
Proceeds in 2014/2015	426,416,160,051
Total	**725,822,310,051**
Less Repayments	435,762,550,000
Recalculated Balance	290,059,760,051
Statement Balance	318,928,150,000
Difference	**28,868,389,949**

Submission by Accounting Officer

The reconciliation exercise between The National Treasury and Central Bank of Kenya has been done to reflect the correct closing balance of Kshs.26, 668,755,685.50 and is supported by a Loan amortization schedule. The difference observed by the auditor is because he is using the net value and not the face value. In addition, the statement of outstanding Public Debt shows Treasury Bills balance of Kshs 318,928,150,000 and the auditors' recalculated balance of Kshs.290, 359,760,050.75 are based on net value and not face value. The reconciliation has been done and available for audit verification.

Committee Observations and Findings

- **(i) The statement of outstanding debt as at 30 June 2015 reflected a balance of Kshs. 26,615,000,000 relating to Pre-1997 Government Overdraft debt;**
- **(ii) The opening balance for this item was Kshs. 28,273,000,000 as at 1July 2014, and a repayment of Kshs.1,110,000,000 was made during 2014/2015 as per the loan agreement between Government of Kenya and the Central Bank of Kenya. The closing balance as at 30 June 2015, therefore, ought to have been Kshs. 27,163,000,000 and not Kshs. 26,615,000,000. The resultant difference of Kshs. 548, 000,000 has not been explained to date, and**
- **(iii) The reconciliation has been done and availed for audit verification**
- **(iv) The Committee marked the matter as resolved.**

Other Matter

34. Growth in Public Debt

The statement of public debts as at 30 June 2016 reflects an outstanding public debt of Kshs.3,385,910,449,825 representing an increase of Kshs.711,104,085,630 or 26.6% of 2014/2015 outstanding debts balance of Kshs.2,674,806,364,195 as at 30 June 2015. As in the previous year, the net increase of Kshs.711, 104,085,630 has been attributed mainly to disbursements of new loans to the Government by various development partners and additional borrowing from the domestic market through treasury bonds and treasury bills.

Committee Observations and Findings

- **(i) The statement of public debts as at 30 June 2016 reflects an outstanding public debt of Kshs.3,385,910,449,825 representing an increase of Kshs.711,104,085,630 or 26.6% of 2014/2015 outstanding debts balance of Kshs.2,674,806,364,195 as at 30 June 2015.**
- **(ii) The net increase of Kshs.711,104,085,630 has been attributed mainly to disbursements of new loans to the Government by various development partners and additional borrowing from the domestic market through treasury bonds and treasury bills.**
- **(iii)As was reported in the approved Budget and Appropriation Committee (BAC) report on the Budget Policy Statement (BPS) for the FY 2019/2018 and the medium term, the Country is facing significant debt refinancing pressure. The refinancing needs for the next one year (FY 2019/20202) will be USD 10.4 billion (approximately Kshs. 1.04 trillion) having risen substantially from USD 1.8 billion (approximately Kshs. 180 billion) in FY 2018/2019 and USD 1.4 billion in the FY 2017/2018. The debt refinancing requirements of debts maturing in one year in FY 2019/2020 will reach 50 percent of the total revenues.**

35. Ken-Ren Chemical and Fertilizer Company-Loan Repayment

The statement of outstanding public debt reflects principal loan amounts of Kshs.1, 855,689,653 and Kshs.3, 583,397,947 in respect of Government guaranteed debts incurred in 1970 on account of Ken-Ren Chemical and Fertilizer Company. The loans were advanced by the Government of Australia and the Government of Belgium respectively. The total principal of Kshs.5, 439,087,600 plus interest amount of Kshs.887, 348,232 were fully repaid in the financial year 2014/2015. It is a matter of concern that a total amount of Kshs. 6,326,435,833 was incurred on a project which did not take off and against which no value for money was achieved.

Submission by Accounting Officer

The Accounting Officer stated that by the time of audit the total principal of the above loan amounting to Kshs.5, 439,087,600.27 plus interest of Kshs.887, 348,232.26 were fully repaid in the financial year 2014/2015. The obligation arose from a case filed in the Court of Arbitration of the International Chamber of Commerce by a Belgian Bank, Ducroire. The Court found the Government of Kenya liable as a guarantor to pay Euro 21.2 million. The loan has continued to be paid in accordance with Paris Club Consolidation of Debts Agreement, under which the Government negotiated to repay the amount commencing on 30th June, 2004 and ending on 30th June, 2016. The full amount has since been cleared. The National Treasury had an obligation to settle the loan as per the Paris Club Agreement.

Committee Observations and Findings

- **(i) The government incurred a total of Kshs. 2,845,254.70 and Kshs. 347,023,821.50 incurred on interest and principal loan repayments respectively in the FY 2014/2015, towards settlement of Government guaranteed debts incurred in 1970 on account of Ken-Ren Chemical and Fertilizer Company.**

(ii) The Government of Kenya has paid a payment of Euro 21.2 million (approximately Ksh. 2.48 billion) towards settlement of Government guaranteed debts incurred in 1970 on account of Ken-Ren Chemical and Fertilizer Company. Even though, the full amount of the debt is now settled, the Committee is deeply concerned that government spent such colossal sums of money on a project which did not take off and against which no value for money was achieved.

(iii)The Committee marked the matter as resolved.

THE STATEMENT OF OUTSTANDING OBLIGATIONS GUARANTEED BY THE KENYA GOVERNMENT

Basis for Adverse Opinion

36. Presentation of the Financial Statement

Contrary to the guidelines prescribed by the Public Sector Accounting Standards Board, the statement of outstanding obligations guaranteed by the Government of Kenya as at 30 June 2016 prepared and submitted for audit does not comply fully with the requirements of the International Public Sector Accounting Standards (Cash Basis). The single statement submitted does not include comparative balances for the previous year, accounting policies used in its preparation and other explanatory notes.

Submissions by Accounting Officer

The Accounting Officer stated that the statement of Obligations Guaranteed by the Government is a disclosure of contingent liability that may crystalize in future. It is not a financial statement in the context of reports under the International Public Sector Accounting Standards (Cash Basis).

The amended statement was submitted for audit review included comparative balances for the previous year and explanatory notes on Kenya Railways and Cereals and Sugar Finance Corporation.

Committee Observation and Finding

The Accounting Officer tabled documents to support its submission that the matter relating to presentation of the Financial Statement on the statement of outstanding obligations guaranteed by the Kenya Government under paragraph 6 had been resolved to the satisfaction of the Committee.

37. Long Outstanding Balances

The statement of outstanding obligations guaranteed by the Kenya Government as at 30 June 2016 reflects long outstanding contingent liabilities totaling Kshs.164,132,746 made up of Kshs.11,814,920 and Kshs.152,317,825 relating to Kenya Railways Corporation and Cereals and Sugar Finance Corporation, respectively. Settlement of these liabilities appears to be uncertain because the National Treasury has indicated that their clearance is dependent on redemption of bonds issued by Kenya Railway Corporation and completion of winding up process of the Cereals and Sugar Finance Corporation.

Kenya Railways Corporation – Kshs.11,814,920.20

The accounting officer stated that the outstanding obligations guaranteed by Kenya Government to Kenya Railways Corporation of Kshs.11,814,920.20 is not long over-due since the Bonds have not matured. The amount is included in total guarantees given on behalf of Kenya Railways and reported in their audited financial statements. The amount guaranteed therefore remains a contingent liability and its settlement is depended on the redemption of the bonds. The National Treasury wrote to the Kenya Railways Corporation to confirm details of the bond holders and their maturity dates.

Cereals and Sugar Finance Corporation– Kshs.152,317,825.00

The Accounting Officer stated that the obligation guaranteed by Government in respect of borrowing by Cereals and Sugar Finance Corporation (CSFC) amounting to Kshs.152,317,825.00 has remained outstanding in our books pending conclusion of the winding up process. The task Force on winding up of dormant funds prepared Statements of affairs to determine the financial position of CSFC. The statements were submitted for audit examination.

Committee Observations and Findings

(i) The status of obligation guaranteed by the Kenya Government to bond holders of Kenya Railways Corporation Ksh. 11,814,920.20 in the absence of any indication that the obligation guaranteed has crystallized, it remains a contingent liability.
(ii) The Task force on winding up of dormant funds prepared Statements of affairs to determine the financial position of CSFC. The statements were submitted for audit examination. The audit query will be kept in view awaiting the conclusion of the Task Force.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory and the matter is wiating the finbalization of the report by theTask force appointed to clear old balances. Further, Accounting Officer should ensure that theTask force appointed to clear old balances concludes its work within the timelines as per reccomendation of PAC report on FY 2014/2015.

KENYA LOCAL LOANS SUPPORT FUND

Basis for Disclaimer of Opinion

38. Inaccurate Financial Statements

The statement of financial assets as at 30 June 2016 reflects total cash and cash equivalents balance of Kshs. 5,000,000 while the statement of cash flows reflects a nil balance in respect of the same item as at that date. No explanation has been provided for this anomaly.

Submission by Accounting Officer

The amount of Kshs.5,000,000.00 had erroneously been omitted in the cash flow statement however the amount was reinstated when preparing the cash flow statement for 2016/17 Financial Year.

Committee Observations and Findings

(i) The statement of financial assets as at 30 June 2016 reflects total cash and cash equivalents balance of Kshs. 5,000,000 while the statement of cash flows reflects a nil

balance in respect of the same item as at that date. No explanation was provided for this anomaly at the time of audit; and

(ii) The amount of Kshs. 5,000,000.00 had erroneously been omitted in the cash flow statement however the amount was reinstated when preparing the cash flow statement for 2016/17 Financial Year.

(iii)The Committee marked the matter as resolved.

39. Un-supported Balances

The balances reflected in the statement of assets under accounts receivable-investment cost (CSFC), accrued interest, bank balance and fund balance of Kshs.10,410,374, Kshs.71,595,406, Kshs.5,000,000 and Kshs.87,005,780, respectively have not been supported by notes, analyses and other documentary evidence. Therefore, the accuracy of the balances cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that the balances reflected in the statement of assets under accounts receivable-investment cost (CSFC) accrued interest, bank balance and fund balance of Kshs.10,410,374, Kshs.71,595,460, Kshs.5,000,000 and Kshs.87,005,780 respectively had not been supported by notes, analysis and other documentary evidence. These are old balances whose documents are not available and will be cleared when the fund is wound up. The account tin g officer finally stated that they were waiting for conclusion of the Taskforce on winding up dormant funds.

Committee Observations and Findings

(i) The balances reflected in the statement of assets under accounts receivable-investment cost (CSFC) accrued interest, bank balance and fund balance of Kshs.10,410,374, Kshs.71,595,460, Kshs.5,000,000 and Kshs.87,005,780 respectively had not been supported by notes, analysis and other documentary evidence; and

(ii) These are old balances whose documents are not available and will be cleared when the fund is wound up. The account tin g officer finally stated that they were waiting for conclusion of the Taskforce on winding up dormant funds

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is wiating the finbalization of the report by theTask force appointed to clear old balances. Further, accounting officer should ensure that theTask force appointed to clear old balances concludes its work within the timelines as per reccomendation of PAC report on FY 2014/2015

40. Comparative Balances

The comparative balances for 2014/2015 reflected in the financial statements for the year under review differ with the balances shown in the audited financial statements for 2014/2015 as follows:

Item Description	Comparative balance 2014/2015 (Kshs)	Audited financial statement 2014/2015 (Kshs)
Receipts	0	660,000
Bank/Cash balance	5,000,000	67,355,406
Accrued interest	71,595.406	9,240,000
Fund Account	87,005,780	5,000,000

No explanation and disclosures have been provided for the retrospective adjustment of these prior period balances.

Submission by Accounting Officer

The Accounting Officer stated that the comparative balances for 2014/2015 reflected in the financial statements for the year under review differ with the balances shown in the audited financial statement of 2014/15.

Committee Observations and Findings

(i) **The comparative balances for 2014/2015 reflected in the financial statements for the year under review differed with the balances shown in the audited financial statements for 2014/2015.**
(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

The explanation by the Accounting Officer was not satisfactory to the Committee therefore the matter is waiting further explanation and disclosures by the accounting officer to the auditors.

41. Failure to Redeem Stocks

In the reports for previous years, reference was made to stocks valued at Kshs.10, 430,700 which were past their redemption dates with the last redemption date for a sum of Kshs.17, 400 having been on 6 February 2010. The National Treasury had explained in the past that the stocks were redeemed some years ago but erroneously accounted for as revenue. However, records to confirm the erroneous accounting for receipts and subsequent correction in the books of account were not presented for audit during the year under review.

Submission by Accounting Officer

The Accounting Officer stated that the National Treasury had explained that the stocks worth Kshs.10, 430,700.00 were redeemed some years ago but erroneously accounted for as revenue. The bank confirmed in writing that redemption proceeds in respect of 6% Kenya Stock 1997 of Kshs.4,045,400.00 are still held in the Sundry Creditors account in Central Bank of Kenya assigned to the P.S. National Treasury while stocks worth Kshs.6,385,300.00 have nil balance in the bank books indicating that they were redeemed. It has been a challenge to trace the records of 6% Kenya Stock 1997 of Kshs.4, 045,400.00 due to the old nature of records. The National Treasury has written to Central Bank of Kenya requesting the date of redemption of Kshs.6, 385,300.00 to enable it trace their receipts and account for them**.**

Committee Observations and Findings

The Committee observed that the issue was among those being addressed by the Task Force on Old Outstanding balances. The issue remains unresolved awaiting response from the Central Bank of Kenya and completion of work by the Task Force.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is waiting the finalization of the report by theTaskforce appointed to clear old balances. Further, the Accounting Officer should ensure that theTask force appointed to clear old balances concludes its work within the timelines as per reccomendation of PAC report on FY 2014/2015

42. Winding Up of the Fund

According to information available, the Kenya Local Loans Support Fund is in the process of being wound up in line with the recommendations of the Public Accounts Committee and instructions issued by the National Treasury that all dormant funds are wound up. However, the process had not been completed as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer stated that the Kenya Local Loans Support Fund (KLLSF) is dormant and earmarked for winding up in line with recommendations of Public Accounts Committee and instructions by Treasury that all dormant funds are wound up.

The accounting officer further noted that a task force was constituted to prepare information and recommend the winding up of Dormant Funds including KLLSF prepared a progress report as at 30th June, 2015. A copy of the report has been availed for audit review.The winding up is still in the process and the resolution of the issue is dependent on the completion of the exercise.

Committee Observations and Findings

(i) The Committee observed that the issue was among those being addressed by the TaskForce on dormant Funds. The issue remains unresolved awaiting response from the Central Bank of Kenya and completion of work by the Task Force.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is awaiting the finalization of the report by theTaskforce appointed to clear old balances. Further, accounting officer should ensure that theTaskforce appointed to clear old balances concludes its work within the timelines as per reccomendation of PAC report on FY 2014/2015.

CONSOLIDATED FUND SERVICES - PENSION AND GRATUITIES - VOTE R-051

Basis for Qualified Opinion

43. Un-reconciled Ledger and Trial Balance Figure

The statement of receipts and payments reflects total expenditure of Kshs. 51,250,699,449 for the year ended 30 June 2016. The amount includes civil pension payments totaling Kshs.19, 503,027,865 which agree with the trial balance figure as at 30 June 2016. The ledger, however, shows a balance of Kshs.19, 505,843,028 under the same item as at 30 June 2016. The difference of Kshs.2, 815,163 between the two set of records which should ordinarily agree has not been explained or reconciled.

Submission by Accounting Officer

The Accounting Officer stated that Kshs. 19, 505,843,027.70 in the ledger included Kshs.2, 815,163.00 erroneously charged to civil pension instead of re-credited cheques. The error has been rectified vide the attached journal voucher reverting to the correct position of Kshs.19, 503,027,865.00. The adjusted trial balance, ledger and the statement of receipt and payments are in agreement and were submitted.

Committee Observations and Findings

(i) The statement of receipts and payments reflects total expenditure of Kshs. 51,250,699,449 for the year ended 30 June 2016. The amount includes civil pension payments totaling Kshs. 19, 503,027,865 which agree with the trial balance figure as at 30 June 2016. The ledger, however, shows a balance of Kshs.19, 505,843,028 under the same item as at 30 June 2016. The difference of Kshs.2, 815,163 between the two set of records which should ordinarily agree has not been explained or reconciled; and

(ii) Kshs. 19, 505,843,027.70 in the ledger included Kshs.2, 815,163.00 erroneously charged to civil pension instead of re-credited cheques. The error has been rectified vide the attached journal voucher reverting to the correct position of Kshs.19, 503,027,865.00. The adjusted trial balance, ledger and the statement of receipt and payments are in agreement and were submitted

Committee Recommendations

The Accounting Officer should ensure that the statement of financial position for the CFS (Pensions and Gratuities) are prepared and reconciled in time in compliance with the provisions of Sections 68(2), 80 of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2)(k) of the PFM Act 2012.

44. Unsupported Payments-Crown Agent

The statement of receipts and payments reflects total expenditure of Kshs.51, 250,699,446 for the year ended 30 June 2016. The amount includes payments of pension through Crown Agent to dependents residing in United Kingdom totaling Kshs. 24,427,260. The expenditure has not been supported by any schedule showing the payee and their respective pension amount. In the absence of the supporting documents, it has not been possible to confirm the propriety of this expenditure.

Submission by Accounting Officer

The Accounting Officer stated that the National Treasury made a payment of Ksh. 24,427,260.00 to Crown Agent to facilitate payment of pensions to Dependents residing in United Kingdom.

Committee Observations and Findings

The National Treasury made a payment of Ksh. 24,427,260.00 to Crown Agent to facilitate payment of pensions to Dependents residing in United Kingdom.

Committee Recommendations

The Accounting Officer should within three (3) months of adoption of this report, prepare and submit to the Auditor-General a schedule showing the payee and their respective pension amount.

45. Cash and Cash Equivalent

(i) Bank Balance

The statement of financial assets and liabilities reflects a bank balance of Kshs.246, 703,998 as at 30 June 2016 while the cashbook, bank reconciliation and board of survey report reflect a balance of Kshs.3, 184,293 as at 30 June 2016. The resulting difference of Kshs.243, 519,705 has not been reconciled or explained.

Submission by Accounting Officer

The Accounting Officer stated that the bank balance of Ksh.246, 703,998.00 reflected in the Financial Statements as at 30th June, 2016 was reconciled with the cashbook balance and the reconciliation availed for audit review.

Committee Observations and Findings

The statement of financial assets and liabilities reflects a bank balance of Kshs.246, 703,998 as at 30 June 2016 while the cashbook, bank reconciliation and board of survey report reflect a balance of Kshs.3, 184,293 as at 30 June 2016. The resulting difference of Kshs. 243, 519,705 was not reconciled or explained at the time of audit. It was later reconciled with the cashbook balance and the reconciliation availed for audit review

Committee Recommendations

The explanation by the accounting oficer was satisfactory. However, the accounting officer must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

(i) Bank Reconciliation Statement for CFS Cashbook-Account No 01-010- R050

a) Payments in Cashbook not in Bank Statement

The bank reconciliation statement as at 30 June 2016 shows payments in cashbook not reflected in the bank statement of Kshs.993, 199,715. The payments included amounts paid to the Chief Accountant of Kshs.5, 056,541. The pensions department has not explained why payments to the

Chief Accountant have not been effected in the bank statement. The reconciliation also shows tax recovered (PAYE) from pensioners and income tax department totaling Kshs.3,299,730 and Kshs.104,531,554 respectively paid in the cashbook but not reflected in the bank statement. No explanation has been provided for non-remission of the said taxes.

Submission by Accounting Officer

The Accounting Officer stated that out of the figure of Kshs.993,199,175.20 in question as at 30th June, 2016, an amount of Kshs.983,461,412.85 has been cleared as per June, 2017 Bank reconciliation leaving a balance of Kshs.9,737,762.35. Efforts are being made to reconcile/clear the remaining balance.

Committee Observations and Findings

(i) The bank reconciliation statement as at 30 June 2016 shows payments in cashbook not reflected in the bank statement of Kshs.993, 199,715. The payments included amounts paid to the Chief Accountant of Kshs.5, 056,541. The pensions department has not explained why payments to the Chief Accountant have not been effected in the bank statement; and

(ii) The reconciliation also shows tax recovered (PAYE) from pensioners and income tax department totaling Kshs.3,299,730 and Kshs.104,531,554 respectively paid in the cashbook but not reflected in the bank statement. No explanation has been provided for non-remission of the said taxes.

(iii)The Committee marked the matter as unresolved.

Committee Recommendations

Within three months of the adoption of this Report, the Accounting Officer should provide a reconciliation statement clearing the outstanding balance of Kshs. 9,737,762.35 for audit review.

b) Receipts in Bank Statement not in Cashbook

The bank reconciliation as at 30 June 2016 reflects receipts in the bank statement not posted to the cashbook totaling Kshs.147, 667,377. The receipts include direct credits with some dating back to year 2009 as analyzed below.

Year	**Amount Kshs.**
2009	5,307,518
2010	46,718,600
2011	16,060,150
2012	7,887,184

2013	28,784,218
2014	21,872,703
2015	10,396,182
2016	10,640,823
Grand Total	**147,667,377**

No explanation has been provided as to why the receipts were not posted to the cashbook by 30 June 2016.

c)Payments in the Bank Statement not in the Cashbook

The bank reconciliation statement reflects payments in the bank statement not in the cashbook totaling Kshs.61, 038,785 in respect of cheques fraudulently paid by pension's department employees and third parties. The payments relate to period between July 2008 and May 2016. Further, the reconciliation includes items described as fake cheques, unpaid cheques, payment to individuals, FT drawer signature and TRFS of Kshs.12,423,395, Kshs.792,940, Kshs.7,829,921, Kshs.544,631 and Kshs.27,666,778 respectively. Management has not provided explanations as to what some of the payments represent and why they have remained outstanding for long without being recorded in the cashbook.

Submission by Accounting Officer

The Accounting Officer stated that out of the figure of Kshs.61,038,785.40 in the Bank statement and not in Cashbook, an amount of Kshs.31,075,989.20 has been cleared as per June, 2017 Bank Reconciliation, leaving a balance of Kshs.29,962,796.20. Efforts are being made to clear the remaining balance.

Committee Observations and Findings

- **(i) The bank reconciliation statement reflects payments in the bank statement not in the cashbook totaling Kshs.61, 038,785 in respect of cheques fraudulently paid by pension's department employees and third parties; and**
- **(ii) The accounting officer stated that out of the figure of Kshs.61,038,785.40 in the Bank statement and not in Cashbook, an amount of Kshs.31,075,989.20 has been cleared as per June, 2017 Bank Reconciliation, leaving a balance of Kshs. 29,962,796.20.**
- **(iii)The Committee marked the matter as unresolved.**

Committee Recommendations

The Accounting Officer should, within three months of the adoption of this Report, provide a reconciliation statement clearing the outstanding balance of Kshs. 29,962,796.20.

d)Receipts in the Cashbook not in the Bank Statement

The bank reconciliation statement reflects receipts in the cashbook not in bank statement as analyzed below.

Year	Amount Kshs.
2007	58,076
2008	4,140
2010	42,720,886
2011	16,392,275
2012	14,293,699
2013	5,585,712
2014	8,794,163
2015	24,552,052
2016	42,013,884
Grand Total	**154,414,888**

No reconciliations have been provided for these receipts. The accuracy of the bank balance of Kshs.246, 703,998 reflected in the financial statements could therefore not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that as at 31st June, 2017 an amount of Ksh.16,364,049.90 had been cleared out of the figure in question of Ksh.147,667,376.80 leaving a balance of Ksh.131,303,326.90. Efforts are being made to identify the depositors in order to clear the remaining balance.

Committee Observations and Findings

The bank reconciliation statement reflected receipts in the cashbook not in bank statement out of which an amount of Ksh. 16,364,049.90 had been cleared out of the figure in question of Ksh. 147,667,376.80 leaving a balance of Ksh. 131,303,326.90.

Committee Recommendations

The Accounting Officer should, within three (3) months of the adoption of this Report, provide a reconciliation statement clearing the outstanding balance of Kshs. 131,303,326.90.

46. Payables

46.1 Re-credited Cheques

The statement of financial assets and liabilities reflects account payables balance of Kshs.2, 853,521,960 as disclosed under Note 8.4. This is the amount returned unpaid due to various reasons such as incorrect bank accounts, closed bank accounts and incorrect bank codes. Although the pensions department has implemented several measures like encouraging pensioners to give correct information, obtaining mobile telephone numbers for pensioners or dependents as contacts and having inbuilt bank codes in the Pension Management Information System (PMIS) among others, the balance of re-credited cheques continues to increase significantly each year and the measures implemented to ensure subsequent payment of the returned pension appears ineffective. The year 2014/2015 balance was Kshs.2, 300,281,209.

Submission by Accounting Officer

The Accounting Officer stated that despite the introduction of the various reforms there is an increase in returned pension which is caused by increase in number of pensioners, the revised pension rates, death of pensioners and dependents/guardians giving wrong data and taking long to report the death of the pensioner. The process of identifying the correct beneficiaries to proof he/she is the sole beneficiary is also a lengthy process. To address the challenges the National Treasury is carrying out sensitization to the public through help desks in Huduma Centers and participation in trade shows. Also the current system is being re-engineered to improve the system.

Committee Observations and Findings

- **(i) The statement of financial assets and liabilities reflects account payables balance of Kshs. 2,853,521,960 as the amount returned unpaid due to various reasons such as incorrect bank accounts, closed bank accounts and incorrect bank codes.**
- **(ii) The balance of re-credited cheques continues to increase significantly each year and the measures implemented to ensure subsequent payment of the returned pension appears ineffective. The year 2014/2015 balance was Kshs. 2,300,281,209.**
- **(iii) It is unfortunate that cheques and electronic transfers to pensioners through various banks and SACCOs continue to be returned to Pensions Departments while the beneficiary pensioners are languishing in poverty. The amounts returned due to various reasons from Kshs. 2.3 billion in the FY 2014/2015 to Kshs. 2.8 billion in the FY 2015/2016.**
- **(iv) The reasons for the return of the funds to Pensions Department advanced by the Accounting Officer was not that convincing to the Committee since there are alternatives channels of ensuring the funds reach the pensioners. The sensitization to the public through help desks in Huduma Centers and participation in trade shows are not panacea to maladministration at the Pensions Department.**

Committee Recommendations

- **(i) The Accounting Officer should ensure that the Task force appointed to clear old balances concludes its work within the timelines as per reccomendation of PAC report on FY 2014/2015.**
- **(ii) The Cabinet Secretary, the National Treasury should, within three (3) months of adoption of this report, submit to the National Assembly a status report on public pension's obligations and debts owed to pensioners in the Country. Further, provide a report on measures the government is taking in revamping the public service pensions management system to enhance transparency and accountabilityin service provisions by Pensions Department.**

(iii)The Cabinet Secretary, the National Treasury should, within three (3) months of adoption of this report, submit to Parliament a status report on the implementation of thePublic Service Superannuation Scheme Act No. 8 of 2012 whose implementation has been put in abeyance for inordinately long period of time. The implementation of the Act is expected to enhance governance, transparency and accountability of public service pension management in the country by making operational Public Service Superannuation Fund and Board of Trustees.

46.2 Deposit Bank Account

The returned pension is receipted in the Pension Department Recurrent Vote Account and recorded in the books of accounts as payables. The returned pension is not supported with schedules indicating the beneficiaries whose pension was returned nor a deposit bank account balance of the returned pension.

Submission by Accounting Officer

The Accounting Officer stated that by the time of audit the schedules giving the names for the returned pension beneficiaries were not availed for audit but have since been availed for audit review.

Committee Observations and Findings

- **(i) The returned pension is receipted in the Pension Department Recurrent Vote Account and recorded in the books of accounts as payables.**
- **(ii) The returned pension is not supported with schedules indicating the beneficiaries whose pension was returned or a deposit bank account balance of the returned pension.**
- **(iii)The Accounting Officer stated that the schedules giving the names for the returned pension beneficiaries were availed for audit review. However, no explanation was offered for failure to maintain a deposit bank account for the returned pension**.
- **(iv)The Committee marked the matter as unresolved.**

Committee Recommendations

- **(i) The Accounting Officer should,Within three months of the adoption of this Report, operationalise a deposit bank account for the returned pension.**
- **(ii) The Accounting Officer must at all times ensure compliance to the provisions of Section 9(1e) of the Public Audit Act, 2015 which gives the Auditor-General powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities.**

47. Funds Transferred to Public Trustee

47.1 Unpaid Death Gratuity

The total expenditure reflected in the statement of receipts and payments of Kshs.51, 250,699,446, includes death gratuities payments totaling Kshs.1, 195,249,583 paid during the year under review. The responsibility of paying death gratuities is vested in the Regional Public Trustees. Verification carried out during the year to confirm receipt of the death gratuities by beneficiaries revealed that an amount of Kshs.245, 075,026 had not been paid to the beneficiaries. The amount outstanding per region is as indicated below.

Region		Amount
1	Embu	16,476,061
2	Nyeri	42,580,143
3	Machakos	14,870,278
4	Mombasa	19,172,351
5	Kisumu	31,537,125
6	Kakamega	23,019,513
7	Eldoret	53,877,301
8	Nakuru	36,295,379
9	Kisii	7,246,875
Total		**245,075,026**

It is therefore not possible to authenticate the payments of Kshs.202, 531,106.

47.3 Unsupported Payment

The estate/trustee files in Embu and Nyeri regional offices indicated that gratuities totaling Kshs.3,400,830 were disbursed without letters to confirm the beneficiaries of the deceased estate from the respective authorities as per the provisions of the Pensions Act Cap 189. It is therefore not clear how the files indicated below were processed and paid without the required supporting documents.

Regional Office	File No	Amount Kshs.
Embu	GC0000253742	1,978,543
Nyeri	47 of 2015	1,422,287
Total		**3,400,830**

Submission by Accounting Officer

The Accounting Officer stated that the current policy is that the National Treasury processes payments for dead pensioners through Public Trustee. The Public Trustee office is under the office of the State Law Office which is subjected to audit like any other public accounting unit. Any payment to Public Trustee is acknowledged with a receipt. Therefore, the issues raised by the Auditor should have been addressed to the office of the Public Trustee. The National Treasury has written vide Ref EPN/167/025/ Vol X II dated 22nd August 2016and Ref. No. EPN/167/025 Vol.XIII (6) dated 26th March 2018 requesting the State Law Office to respond to the issues raised by the Auditor.

Committee Observations and Findings

(i) **The estate/trustee files in Embu and Nyeri regional offices indicated that gratuities totaling Kshs.3, 400,830 were disbursed without letters to confirm the beneficiaries of the deceased estate from the respective authorities as per the provisions of the Pensions Act Cap 189.**

(ii) **The current policy is that the National Treasury processes payments for dead pensioners through Public Trustee office which is under the office of the State Law Office. Therefore, the issues raised by the Auditor should have been addressed to the office of the Public Trustee.**

(iii) **The National Treasury has written vide Ref EPN/167/025/ Vol X ii dated 22nd August 2016and Ref. No. EPN/167/025 Vol. xiii (6) dated 26th March 2018 requesting the State Law Office to respond to the issues raised by the Auditor.**

(iv) **The Committee marked the matter as unresolved.**

Committee Recommendations

The Accounting Officer responsible for matters relating to the Public Trustee Office under the State Law Office should, within three (3) months of the adoption of this Report, address the issues raised by the auditor.

REVENUE STATEMENT - PENSIONS DEPARTMENT

Basis for Adverse Opinion

48. Un-supported Balances

48.1 Revenue Collected

The statement of revenue reflects total revenue of Kshs.459, 421,435 which as disclosed under Note 5 includes 31% Contribution and Cap Deductions of Kshs.455, 812,435 and Kshs.3, 609,255 respectively. The amounts represent collection during the period under review. The analysis for the amounts showing details of the contributors were not, however, provided for audit review.

Submission by Accounting Officer

The statement of revenue shows total revenue of Kshs.459,421,435.00 which included 31% contribution and Chief Accountant Pension deductions of Kshs.455,812,435.00 and

Kshs.3,609,255.00 respectively. By the time of audit, the analysis of the amount showing details of the contributors were not availed but has since been remitted for audit review.

Committee Observations and Findings

- **(i) The statement of revenue shows total revenue of Kshs. 459,421,435.00 which included 31% contribution and Chief Accountant Pension deductions of Kshs. 455,812,435.00 and Kshs. 3,609,255.00 respectively.**
- **(ii) By the time of audit, the analysis of the amount showing details of the contributors were not availed but has since been remitted for audit review.**
- **(iii)The Committee marked the matter as unresolved.**

Committee Recommendations

The Accounting Officer must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

48.2 Revenue Balance

The statement of revenue reflects a nil balance as at 30 June 2016. The amount collected totaling Kshs.459, 421,435 was apparently transferred to the National Exchequer during the period under review. The bank statement, bank certificate and bank reconciliations were not, however, provided. The accuracy of the balance could not, therefore, be confirmed.

Submission by Accounting Officer

The statement of Revenue reflects a NIL balance as at 30 June 2016 and the total amount collected Kshs.459, 421,435.00 was transferred to the Exchequer Account during the year. By the time of audit, bank statement, bank certificate and bank reconciliation were not availed but have since been remitted for audit review.

Committee Observations and Findings

- **(i) The statement of Revenue reflects a NIL balance as at 30 June 2016 and the total amount collected Kshs.459, 421,435.00 was transferred to the Exchequer Account during the year; and**
- **(ii) By the time of audit, bank statement, bank certificate and bank reconciliation were not availed but have since been remitted for audit review.**
- **(iii)The Committee marked the matter as resolved.**

49. Un-resolved Issues for 2014/2015 Financial Year

49.1 Un-supported Balance

The statement of revenue under the notes reflected General Deposit-PMG account balance of Kshs.1, 051,602,039 which was not supported by trial balance figures and analyses.

Submission by Accounting Officer

The statement of revenue under General Deposit – PMG A/C (Note 4) reflected a balance of Kshs.1, 051,602,039.19. This has been supported by a trial balance figures and analysis. This figure has since been analyzed and supported by a ledger and the trial balance and the same was availed for audit review.

Committee Observations and Findings

The Committee adopts its recommendation on the matter as it appears in the Committee's report on the examination of the Accounts of the Auditor General for the Financial Year 2014/2015.

49.2 Comparative Figures for 2013/2014

Note 4 to the statement of revenue also reflect other suspense balance of Kshs.1, 971,533 relating to overpayments of pension made over the years. However, the balance was not analyzed. In addition, no indication was given regarding how Pensions Department intended to recover the amounts overpaid to the pensioners.

Submission by Accounting Officer

The Accounting Officer stated that the statement (Note 4) also reflected other suspense balance of KShs.1, 971,533.15.
These are old balances from the ledger brought forward from previous years and the same are being addressed through the National Treasury Task Force on Old Balances.

Committee Observations and Findings

The Committee adopts its recommendation on the matter as it appears in the Committee's report on the examination of the Accounts of the Auditor General for the Financial Year 2014/2015.

49.3 Financial Position

The accumulated actual revenue balance of Kshs.2, 125,593,875 disclosed under Note 4 to the statement and nil balance carried forward as at 30 June 2015 reflected in the statement were not supported by related cashbook balances or bank records. In addition, no bank reconciliation statements or statement of financial position as at 30 June 2015 for the revenue were prepared and submitted for audit.

Submissions by Accounting Officer

The Accounting Officer stated that by the time of the audit the accumulated amount of Kshs.2, 125,593,875.47 disclosed under Note 4 to the Statement and nil balance carried forward as at 30th June 2015 reflected in the statement were not supported by related cash book balances or bank records. The full amount for the two financial years was collected and transferred to the Exchequer. The bank reconciliation, cashbook and bank records have since been availed for audit review.

Committee Observations and Findings

(i) The accumulated actual revenue balance of Kshs. 2,125,593,875 disclosed under Note 4 to the statement and nil balance carried forward as at 30 June 2015 reflected in the statement were not supported by related cashbook balances or bank records. In

addition, no bank reconciliation statements or statement of financial position as at 30 June 2015 for the revenue were prepared and submitted for audit.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

PROVIDENT FUND

Basis for Qualified Opinion

50. Missing Investment Certificates

The statement of financial assets and liabilities reflects investment in shares of Kshs.45, 860,478 representing the gross book value of ordinary share investments in two publicly quoted companies. Out of this balance, a sum of Kshs.14, 807,299 represents 7,540,140 ordinary shares held in the East African Breweries Company Limited. However, only share certificates for 1,960,118 shares relating to the company valued at Kshs.9, 547,660 were presented for audit. Therefore, it has not been possible to confirm whether the balance of 5,580,022 shares valued at Kshs.5, 259,639 invested in the company exist. In view of these discrepancies, it has not been possible to confirm the completeness, value and accuracy of the net investment balance of Kshs.45, 860,478 reflected in the statement of financial assets and liabilities.

Submission by Accounting Officer

The Accounting Officer stated that the financial statements reflect investment in 7,540,140 ordinary shares valued at Kshs.45, 860,478. 00. As at the time of audit the share certificates that were availed for audit were for 1,960,118 shares valued at Kshs.9, 547,660. The National Treasury has since sought and obtained confirmation for the 7,540,140 shares from the East African Breweries Company Limited.

Committee Observations and Findings

(i) The financial statements reflected investment in 7,540,140 ordinary shares valued at Kshs.45, 860,478. 00. As at the time of audit the share certificates that were availed for audit were for 1,960,118 shares valued at Kshs. 9,547,660;

(ii) The National Treasury has since sought and obtained confirmation for the 7,540,140 shares from the East African Breweries Company Limited.

(iii)The Committee marked the matter as resolved.

Committee Recommendations

The accounting officer must at all times ensure entity keeps complete, up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within

three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

51. Cash Deposit – Cereals and Sugar Finance Corporation

The statement of financial assets and liabilities also reflects other receivables balance of Kshs. 3,796,226 representing a cash deposit held in the insolvent Cereals and Sugar Finance Corporation. As reported previously, the Cabinet gave approval on 13 September 2007 for the winding-up of the Corporation and directed the National Treasury to take over its assets and liabilities. However, the winding up process had not been finalized as at 30 June, 2016. In the circumstance, realization of the balance of Kshs.3, 796,226 is still doubtful.

Submission by Accounting Officer

The Accounting Officer stated that included in other receivables balance is cash deposit totaling Kshs.3, 796,226.00 held in the insolvent Cereals and Sugar Finance Corporation. Further the Cabinet gave approval on 13th September 2007 for the winding-up of the Corporation and directed the National Treasury to take over its assets and liabilities.

A taskforce for winding up dormant funds was constituted. The task force produced an Interim report as at September 2015. The draft financial statements for the Corporation have been prepared and forwarded for audit review. The position of this deposit will be determined upon the completion of winding up process by the taskforce on dormant funds. The issue is still pending for conclusion by Task force.

Committee Observations and Findings

- **(i) The statement of financial assets and liabilities reflected other receivables balance of Kshs. 3,796,226 representing a cash deposit held in the insolvent Cereals and Sugar Finance Corporation;**
- **(ii) As reported previously, the Cabinet gave approval on 13 September 2007 for the winding-up of the Corporation and directed the National Treasury to take over its assets and liabilities. However, the winding up process had not been finalized as at 30 June, 2016; and**
- **(iii)The Committee observed that the issue was among those being addressed by the Task Force for winding up dormant Funds. The position of this deposit will be determined upon the completion of winding up process by the taskforce on dormant funds.**
- **(iv)The Committee marked the matter as resolved.**

Committee Recommendation

The matter is waiting the finalization of the report by theTask force appointed to clear old balances. The accounting officer should ensure that theTask force appointed to clear dormant funds concludes its work within the timelines as per reccomendation of PAC report on FY 2014/2015.

52. Un-analyzed Balance

The statement of financial assets and liabilities also reflects other pending payables balance of Kshs.9,715,111 made up of Kshs.9,622,726 and Kshs.92,385 relating to surplus cash remitted by departments and interest due from National Government entities respectively. These balances have repeatedly been brought forward from previous years but without any supporting analyses. In the absence of analyses, it has not been possible to confirm the accuracy, validity and completeness of the balances.

Submission by Accounting Officer

The Accounting Officer stated that the statement of Assets and Liabilities reflects pending payables balances of Kshs. 9,715,111.00 under the following items:-

Particulars	Amounts
Surplus cash remitted by Departments	9,622,726.00
Interest due from the Government	92,385.00
	9,715,111.00

These balances were brought forward from previous years and it has been a challenge to analyze them further since they are historical in nature. The National Treasury constituted a taskforce on Old Balances to assist ministries/departments and agencies to clear the outstanding old balances in their books of accounts. The issue is awaiting the recommendations of the taskforce on the way forward.The issue is still pending conclusion of Taskforce.

Committee Observations and Findings

- **(i) The statement of financial assets and liabilities also reflects other pending payables balance of Kshs. 9,715,111 made up of Kshs. 9,622,726 and Kshs. 92,385 relating to surplus cash remitted by departments and interest due from National Government entities respectively.**
- **(ii) These balances have repeatedly been brought forward from previous years but without any supporting analyses.**
- **(iii)The issue is awaiting the recommendations of the taskforce on the way forward. The issue is still pending conclusion of Taskforce.**

Committee Recommendation

The matter is awaitingfinalization of the report by theTaskforce appointed to clear old balances. The accounting officer should ensure that theTaskforce appointed to clear old balances concludes its work within the timelines as per reccomendation of PAC report on FY 2014/2015.

EUROPEAN WIDOWS AND ORPHANS PENSION SCHEME FUND

Basis for Qualified Opinion

53. Unsupported Dividend Income

The statement of receipts and payments as at 30 June 2016 reflects dividend income of Kshs. 6,920,900 earned from investment in Kenya Power and Lighting Company. However, dividend income amounting to Kshs. 2,599,186 out of the total amount reflected has not been confirmed by the Company or supported by any documentary evidence. In the circumstances, it is not possible to confirm the accuracy of receipts of Kshs.6, 920,900.

Submission by Accounting Officer

By the time of audit, the statement of receipts and payments as at 30 June 2016 reflects dividend income of Kshs.6, 920,900 earned from investment in Kenya Power and Lighting Company. These were several receipts into this account which the National Treasury had not identified the Depositors. A letter was written to CBK requesting for the source details and it was established that an amount of Kshs. 2,599,186.00 was paid by Laikipia County Government for Widows and Children's Pension Scheme (WCPS) and not remitted by KPLC and the National Treasury authorized CBK to transfer the amount fromEuropean Widows and Orphans Pension Scheme to WCPS and the transfer has been effected.

Committee Observations and Findings

(i) **The statement of receipts and payments as at 30 June 2016 reflects dividend income of Kshs. 6,920,900 earned from investment in Kenya Power and Lighting Company. However, dividend income amounting to Kshs. 2,599,186 out of the total amount reflected was not confirmed by the Company or supported by any documentary evidence.**

(ii) **The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.**

54. Understatement of Investment

The statement of financial assets reflects investments balance of Kshs. 25,516,933 as at 30 June 2016. The share certificates provided for audit revealed that 8,643,429 shares with a book value of Kshs.38, 415,240 were held as at that date. The resulting difference of Kshs.12, 898,307 has not been reconciled or explained. In the circumstances, the investments balance of Kshs.25, 516,933 is not fairly stated.

Submission by Accounting Officer

The Accounting Officer stated that the value of investment in Kenya Power & Lighting Company in our books have remained at KSh.25, 516,933.00 from 2011/2012 Financial Year.

However, after the share split, The National Treasury shareholding value is as follows:

	Shares	**Kshs.**
Ordinary Shares	92,140@Kshs.20	1,842,800.00
Ordinary Shares	7,683,048@Kshs.2.50	19,207,620.00
Bonus Shares	868,241@Kshs.20	17,364,820.00
Total	**8,643,429**	**38,415,240.00**

Adjustments to reflect this in our books of Account will be done in 2017/2018 Accounts.

Committee Observations and Findings

(i) **The statement of financial assets reflected investments balance of Kshs. 25,516,933 as at 30 June 2016. The share certificates provided for audit revealed that 8,643,429 shares with a book value of Kshs. 38,415,240 were held as at that date. The resulting difference of Kshs. 12, 898,307 was not reconciled or explained at the time of audit; and**

(ii) **The value of investment in Kenya Power & Lighting Company in the National Treasury r books have remained at KSh.25, 516,933.00 from FY 2011/2012 Financial Year. However, after the share split, The National Treasury shareholding book value has increased to Kshs. 38,415,240.**

(iii) **The Committee marked the matter as unresolved.**

Committee Recommendations

The Accounting Officer should effect adjustments to reflect the true shareholding in the books of Account for FY 2017/2018.

55. Investment Held in Insolvent Cereals and Sugar Finance Corporation

As similarly reported in the previous years, the statement of assets and liabilities reflects a receivables balance of Kshs.16, 900,000 relating to a cash investment held in the Cereals and Sugar Finance Corporation. The Corporation is technically insolvent and according to available information the Government has approved its winding up, with a further requirement that the National Treasury takes over its assets and liabilities. The recoverability of the amount of Kshs.16, 900,000 is therefore doubtful.

Submission by Accounting Officer

The Accounting Officer stated that the statement of assets and liabilities reflects a receivable balance of Kshs.16, 900,000.00 relating to cash deposit held in the Cereals and Sugar Finance Corporation (CSFC), which is technically insolvent. Draft financial statements for Cereals and Sugar Finance Corporation (under liquidation) has been submitted for audit review. The liquidation and winding up process of the corporation is on-going and the recoverability of the amount will be determined once the process is over. The issue has not been resolved since the winding up process is still in progress.

Committee Observations and Findings

(i) **The Committee observed that the issue was among those being addressed by the Task Force on Dormant Funds.**

(ii) **The query remains unresolved and awaits conclusion of the taskforce on old outstanding balances.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is waiting the finalizationof the report by theTask force appointed to clear Dormant Funds. Further, the Accounting Officer should ensure that theTask force appointed to clear dormant

fundsconcludes its work within the timelines as per reccomendation of PAC report on FY 2014/2015.

56. Un-invested Proceeds from Redeemed Stock

As highlighted in the report for 2014/2015 and earlier years, the National Treasury holds cash proceeds from the redemption of 11% Kenya Stock 2000 totaling Kshs.9, 000,000. The stocks were redeemed in July 2001 and the proceeds were expected to be reinvested immediately but are still being held in a deposit account to date. Failure to reinvest the funds for the last fifteen years has denied the Fund income that would finance the payment of pensions due to its beneficiaries.

Submission by Accounting Officer

The Accounting Officer stated that the National Treasury holds in its Deposit Account No.4-867-1020021 cash proceeds from the redemption of 11% Kenya Stock 2000 totaling Kshs.9, 000,000.00 without investing for fifteen years. The proceeds are held in the deposit account of National Treasury. The National Treasury cannot invest in either treasury bills or bonds and the proceeds will be paid back to the fund.

Committee Observations and Findings

(i) **The Committee observed that all required documents proving availability of the funds in the deposit accounting awaiting transfer to the Redeemed Stock Fund were provided and verified.**

(ii) **The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.**

ASIAN OFFICERS FAMILY PENSION FUND

Basis for Qualified Opinion

57. Investment Held in Insolvent Cereals and Sugar Finance Corporation

The statement of assets and liabilities as at 30 June 2016 reflects a receivables balance of Kshs.93, 221,691 which includes an amount of Kshs.15, 200,000 relating to cash deposited in the Cereals and Sugar Finance Corporation. The Corporation is technically insolvent and according to available information Government has approved its winding up, with a further requirement that the National Treasury takes over its assets and liabilities. The recoverability of the amount of Kshs.15, 200,000 is, therefore, doubtful.

Submission by Accounting Officer

The Accounting Officer stated that the statement of financial assets and liabilities reflects the receivables balance of Kshs.93,221,691.00 which includes an amount of Kshs.15,200,000 relating to deposit in Cereals and Sugar Finance Corporation, which is technically insolvent and in the process of being wound up. Draft financial statements for Cereals and Sugar Finance Corporation (under liquidation) have been prepared and submitted for audit review.
The interim report as per September, 2015 of the winding up committee of Dormant Funds has been availed for audit review. The recoverability of the amount will be determined when the

winding up process is finalized. The issue has not been resolved since the winding up process is still in progress.

Committee Observations and Findings

(i) **The statement of financial assets and liabilities reflected the receivables balance of Kshs. 93,221,691.00 which includes an amount of Kshs.15,200,000 relating to deposit in Cereals and Sugar Finance Corporation, which is technically insolvent and in the process of being wound up; and**

(ii) **Draft financial statements for Cereals and Sugar Finance Corporation (under liquidation) have been prepared and submitted for audit review.**

Committee Recommendations

The matter is awaiting the finalization of the report by theTask force appointed to clear dormant funds. Further, the Accounting Officer should ensure that theTask force appointed to clear dormant funds concludes its work within the timelines as per reccomendation of PAC report on FY 2014/2015.

58. Irregular Pension Payments

The Pensions Department made payments totaling Kshs. 519,800 from 2007 to June 2015 and a further Kshs.42, 000 from July 2015 to January 2016 in respect of two deceased beneficiaries. The families of the two beneficiaries notified the Pensions Department in September 2007 and February 2008 respectively of their demise on 16 August 2007 and 28 December 2007. However, the payments were only stopped in February 2016. Out of the total payments made, Kshs.418, 710 was returned by the Bank leaving balance of Kshs.143, 090 unaccounted for. The payment of the pension to deceased beneficiaries has led to loss of Government funds**.**

Submission by Accounting Officer

The Accounting Officer stated that the two deceased beneficiaries remained in the agency payroll up to January, 2016 and had been paid Kshs.561, 800.00. However, the bank had paid Kshs.418, 710 by August, 2017 leaving a balance of Kshs.143, 090. The National Treasury has written to the bank requesting for the payment of the balance.

Committee Observation and Finding

The Pension Department irregularly made payments totaling Kshs. 519,800.00 from 2007 to June 2015 in respect of two deceased beneficiaries. The money's paid was returned by the bank up to the tune of Kshs. 418,710 by August, 2017 leaving a balance of Kshs. 101,090.

Committee Recommendation

(i) **The Accounting Officer should, within three (3) months of adoption of this report,ensure that the outstanding balance of Kshs. 101,090 is fully recovered and evidence submitted for audit review.**

(ii) **, The Director of Pensions Department (during the period under review) must, within three months of the adoption of this report, provide an explanation to the Cabinet Secretary to the National Treasury for making irregular payment of Kshs. 519, 800.00 from 2007 to June 2015 in respect of two deceased beneficiaries for audit review**

contrary to the provisions of sections 198 of the Public Finance Management Act, 2012.

(iii) Where the Director of Pensions Department fails to provide an explanation, the Director of Pensions Department (during the period under review) or any officer determined to be culpable should be reprimanded for making irregular payment of Kshs. 519, 800.00 from 2007 to June 2015 in respect of two deceased beneficiaries pursuant to the manner provided under section 74(4) (b) of the Public Finance Management Act, 2012.

59. Failure to Provide Records for Verification

The statement of receipts and payments reflects an expenditure of Kshs.1, 328,196 being pension payments made during the period under review. The amount includes Kshs.144, 000 paid to four beneficiaries but whose files were not provided for audit verification. It has, therefore, not been possible to confirm the validity and propriety of the balance of Kshs.144, 000 paid to the four beneficiaries.

Submission by Accounting Officer

The statement of receipts and payments reflect an expenditure of Kshs.1, 328,196 being pension payments made during the period under review. The amount includes Kshs.144, 000 paid to four (4) beneficiaries but whose files had not been provided for audit verification. However, two files were availed and efforts are being made to trace the remaining two files. It has been a challenge to trace the four files due to past relocations of the department. However, efforts are being made to avail the remaining two files for audit.

Committee Observations and Findings

(i) The statement of receipts and payments reflect an expenditure of Kshs. 1,328,196 being pension payments made during the period under review. The amount includes Kshs.144, 000 paid to four (4) beneficiaries but whose files had not been provided for audit verification. However, two files were availed and efforts are being made to trace the remaining two files.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer should ensure that two remaining files are traced and submitted for audit review. Failure to provide records for audit verification contravenes Section 9(1)(e) of the Public Audit Act No. 34 of 2015 which gives the Auditor-Genial powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities.

60. Un-supported Balances

The statement of financial assets and liabilities reflects a receivables balance of Kshs.93, 221,691 relating to cash owed by the Joint Consolidated Fund. The balance has, however, not been supported by deposit certificates. Further, the statement reflects a capital account and members contributions of Kshs.122, 295,935 and Kshs.37, 680,778 respectively. Detailed analyses have, however, not been provided for these balances. The accuracy of the balances cannot, therefore, be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the statement of financial assets and liabilities under receivables has a balance of Kshs.93, 221,691.00 made up of:

i)	Cash owed by Joint Consolidated Fund	Kshs. 78,021,691.00
ii)	Cash owed by Cereals & Sugar Finance Corporation	Kshs.15,200,000.00
		Kshs.93,221,691.00

The Joint Consolidated Fund of Kshs.78, 021,691.00 represented investments by former employees of East African Community which were taken over by Crown Agency upon collapse of the Community and subsequently surrendered to Central Bank of Kenya.

The National Treasury has since refunded Kshs.78, 021,691.00 By Journal No.000046 (Kshs.76, 026,408.65 for financial year 2015/16 and 000047 (Kshs.1, 995,282.40) during 2016/2017 financial year, leaving a nil balance. However, the Kshs.15, 200,000.00 owed by Cereals & Sugar Finance Corporation, the recoverability will be determined when the Task Force Committee for Dormant Funds completes the exercise.
Statement also reflects member's contributions of Kshs.37, 680,778.00 whose analysis were reflected in the Note No.7.6 of the financial statement. A schedule showing the individual member's contribution has been prepared and submitted for audit review.

The Capital Accounts (Ledger) of Kshs.122,295,935 includes capital Kshs.119,356,085 and an amount of Khs.2,939,850 being bonus issue upon 1,175,940 shares at Kshs.2.50 granted on 28th February 2012 which were erroneously omitted in the previous years.

Committee Observations and Findings

- **(i) The statement of financial assets and liabilities reflects a receivables balance of Kshs.93, 221,691 relating to cash owed by the Joint Consolidated Fund. The balance has, however, not been supported by deposit certificates.**
- **(ii) The matter is awaiting resolution before the Taskforce on Dormant Funds.**
- **(iii)The Committee marked the matter as unresolved.**

Committee Recommendations

The Accounting Officer should ensure that the Taskforce on Dormant Funds completes its task within the timelines as per reccomendation of PAC report on FY 2014/2015.

CONSOLIDATED FUND SERVICES - SALARIES, ALLOWANCES AND MISCELLANEOUS SERVICES - VOTE R-052

Basis for Adverse Opinion

61. Unexplained Differences in the Financial Statements

The statement of receipts and payments reflects compensation of employees in form of salaries and allowances of Kshs. 2,742,288,074 while the ledgers show payments totaling Kshs. 2,867,959,567 for the same item for the year ended 30 June 2016. The difference of Kshs. 125,671,493 between the two sets of records, which should ordinarily agree, has not been explained.

Further, the payroll summaries and off payroll payments for the period from July 2015 to June 2016 also reflect salaries and allowances expenditure totaling Kshs.2,612,293,004, which differs with the amount of Kshs.2,742,288,074 reflected in the statement of receipts and payments by Kshs.129,995,070. The difference has similarly not been explained.

Submission by Accounting Officer

The Accounting Officer stated that by the time of audit the statement of receipts and payments reflected Ksh. 2,742,288,074.00 against compensation to employees while the ledger showed Ksh. 2,867,959,567.00. The difference between the two sets of records amounting to Ksh.125, 671,493.00 was due to the following reasons:

(i) The ledger included payments amounting to Ksh.94, 528,867.15 whose corresponding receipts had been erroneously omitted in the ledger and have since been posted.

(ii) The ledger also included a payment of Ksh.31, 142,626.90 that was erroneously omitted in the Financial Statements but have since been amended and submitted for audit review.

Further by the time of audit the payroll summaries and off payroll payments for the period from July 2015 to June 2016 also reflected salaries and allowances expenditure totalling Kshs.2,612,293,004 which differed with the amount of Ksh.2,742,288,074 reflected in the statement of receipts and payments by Ksh.129,995,070. Following the amendments on (i) and (ii) above both financial statement and the ledger agree at Ksh.2, 742,288,074 and were submitted to Auditor for verification.

Committee Observations and Findings

The committee marked the matter as resolved.

62. Variances between ledger and the payroll

In addition, the ledger and the payroll expense for the year ended 30 June 2016 for the Heads indicated below are at variance and the National Treasury has not carried out reconciliation or given any explanation.

Head	**Institution**	**Ledger Amount as at 30.06.2016**	**Payroll Amount as at 30.06.2016**	**Variance**
971	Office of the President	148,523,298	36,630,035	111,893,263
979	Former Presidents' Benefits	51,502,696	37,620,055	13,882,641
991	Commission on Implementation of Constitution	189,478,933	59,488,515	129,990,418

Submission by Accounting Officer

The Accounting Officer stated that by the time of audit the ledger and the payroll expense for the year ended 30 June 2016 for the Heads were at variance. The reconciliation has since been done and availed for audit review. After all the above adjustments, the Financial Statements and the Ledger are in agreement.

Committee Observations and Findings

(i) The ledger and the payroll expense for the year ended 30 June 2016 for the Heads indicated below are at variance and the National Treasury has not carried out reconciliation or given any explanation. The reconciliation has since been done and availed for audit review.

(ii) The reconciliation has since been done and availed for audit review. After all the above adjustments, the Financial Statements and the Ledger are in agreement.

(iii)The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

63. Unsupported Payments under Guaranteed Loans Act

The statement of receipts and payments reflects expenditure of Kshs.96, 085,835 and Kshs.954, 122,778 in respect of loan interest and redemption respectively, incurred during the year ended 30 June 2016, under Guaranteed Loans Act. The loans were guaranteed by the Government of Kenya on behalf of two parastatals and paid during the year under review as follows.

Organization	**Principal Amount** Kshs.	**Interest Amount** Kshs.	**Total Kshs.**
Tana Delta Irrigation	265,176,300	31,570,658	296,746,958
Kenya Broadcasting Corporation	688,946,478	64,516,526	753,463,004
Total	**954,122,778**	96,087,185	**1,050,209,962**

As similarly reported in 2014/2015, the terms and conditions under which the Government took over these loans have not been made available for audit review, and as a result, it has not been possible to establish whether or not the defaulting institutions were required to reimburse the

Government, the principal and interest it paid on their behalf. It has not been possible in the circumstance to ascertain whether or not the repayment had complied with the terms and conditions of the take-over.

Submission by Accounting Officer

During the financial year ended 30th June, 2016, the Government made payments on behalf of Kenya Broadcasting Corporation Kshs.753,463,004.45 and Tana and Athi Rivers Development Authority Kshs.296,746,957.95.

Kenya Broadcasting Corporation and Tana and Athi Rivers Development Authority requested the Government, as a guarantor to meet the debt service obligations on their behalf since they were experiencing liquidity constraints. The unfavourable liquidity position has persisted and therefore both organisations have continued to rely on the Government for financial support**.** The defaulting institutions are expected to refund the actual amounts paid and interest pursuant to the provisions of Treasury circular No. 9 and PFM Act 2012, Section 61 once their financial positions improve. The guaranteed loans are recognised and reported by the borrowers in their financial statements except that they are still accumulating losses and therefore unable to meet the debt service obligations. The defaulted instalments have been paid by the Government as a guarantor in line with the terms and conditions set out in the PFM Act, 2012. The guaranteed loans have not been taken over by the Government.

Committee Observations and Findings

(i) During the financial year ended 30th June, 2016, the Government made payments on behalf of Kenya Broadcasting Corporation Kshs. 753,463,004.45 and Tana and Athi Rivers Development Authority Kshs. 296,746,957.95 for loans guaranteed by the Government of Kenya.

(ii) The unfavourable liquidity position of these two institutions has persisted and therefore both organisations have continued to rely on the Government for financial support. The defaulting institutions are expected to refund the actual amounts paid and interest pursuant to the provisions of Treasury circular No. 9 and PFM Act 2012, Section 61 once their financial positions improve.

(iii)The explanation by the accounting oficer was satisfactory. The Committee marked the matter as resolved.

64. Prior Year Adjustments

The statement of financial position as at 30 June 2016 reflects an amount of Kshs.8,883,205,334, which is referred to as prior year adjustments. Further, fund balance brought forward have been re-stated to Kshs.8,848,051,762 from Kshs.397,382,932 reflected in the financial statements as at 30 June 2015. The National Treasury has not explained or provided details of the said adjustments. Consequently, the accuracy of the balances reflected in the financial statements cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that by the time of audit the Statement of financial position as at 30 June 2016 reflects an amount of Kshs. 8,883,205,334 which is referred to as prior year adjustments.

Further, fund balance brought forward have been restated to Kshs.8,848,051,762 from Kshs.397,382,932 reflected in the financial statements as at 30th June, 2015.

The prior year adjustment of Kshs. 8,883,205,334 is the reversal of accumulated exchequer under issues that had been carried in the books and reported as receivables. The budget allocation expires at the end of June every year and since the accounts were prepared on cash basis, the same had to be adjusted.

The fund balance brought forward of Kshs. 8,848,051,762.00 comprise of the following.

	Ksh.
Cash book balance (01.07.2015)	172,450,397
Reversal of Cash book overcast on PA No. 101684	11,980,334
Accumulated exchequer under issues up to FY 2014/15	8,663,621,032
Total	**8,848,051,762**

The initial statement for financial year 2014/15 had been prepared using bank statement balance of Kshs.397,382,932 instead of cash book balance of Kshs.8,566,405,036. The comparative amount was restated to reflect the cashbook balance instead of bank certificate balance.

Committee Observations and Findings

(i) **The Accounting Officer explained and provided details of the said adjustmentsof the prior year adjustment of Kshs. 8,883,205,334 relating to reversal of accumulated exchequer under issues that had been carried in the books and reported as receivables.**

(ii) **The Committee marked the matter as resolved.**

65. Omitted Expenditure and Receipts

Some receipts and expenditures reflected in the ledger for June 2016 have not been captured in the financial statements as disclosed below:

Expenditure	**Kshs**
520-971-0000-2110313	80,195
520-971-0000-6780101	43,277,422
520-971-8820-6780101	51,171,250
520-976-0000-7320199	181,800
Receipts	
520-983-0000-6780101	2,147,327

The National Treasury has also not provided the itemized descriptions for these accounts and as such, it has not been possible to establish what they relate to.

Submission by Accounting Officer

The Accounting Officer stated that by the time of audit, the following receipts and expenditures reflected in the report for June 2016 had not been captured in the financial statements. This was due to erroneous omission as shown below:

Expenditure

i. 520-971-0000-2110313 - Ukaguzi SACCO Society - Kshs. 80,195.00

The payment is in respect of remittance to Ukaguzi Sacco society which had initially failed to go through due to invalid account number and was returned.

ii. 520-971-0000-6780101- Head 971 – Kshs. 43,277,422.00

The payment is made up of funds received from:

	Kshs.
Parliamentary service commission	Kshs.19,881,660.10
Failed salary remittance to Mr. Okubasu	Kshs. 11,490,949.95
Failed salary remittance to Mr Bosire	Kshs. 11,902,711.95
Failed salary remittance to Magistrates & Judges SACCO	Kshs. 2,100.00

iii.520-971-8820-6780101 - Head 971 – Kshs. 51,171,250.15

The payment is made up of:-

Failed salary remittance Magistrates &Judges SACCO	Kshs.12,950.00
Failed salary remittance Magistrates &Judges SACCO	Kshs.2,100.00
Recovery of salary advance-January, 2016	Kshs.172,808.15
Revenue-Petroleum Dev-levy fund	Kshs. 11,617,571.75
Recovery of salary advance-September, 2015	Kshs. 34,156.15
Revenue-Petroleum Dev-Levy Fund	Kshs.15,344,466.60

Recovery of salary advance-October, 2015	Kshs.118,638.15
Recovery of salary advance-November, 2015	Kshs.118,638.15
Recovery of salary advance-December, 2015	Kshs. 172,808.15
Revenue for Exchequer	Kshs.23,577,112.45
Total	**Ksh. 51,171,250.00**

iv. 520-976-0000-7320199 - Head976 Ksh. 181,800.00

Hon Okungu	Kshs. 70,500.00
Hon. Visram	Kshs. 40,800.00
C. Githua	Kshs. 70,500.00

The payments had been erroneously omitted in the financial statement.

Receipts

v. 520-983-0000-6780101 - Omitted Receipts– Kshs. 2,147,326.90

Committee Observations and Findings

The explanation by the Accounting Officer was satisfactory and the Committee marked the matter as resolved.

66. Unspent Appropriation/Cash Balance

The statement of financial position reflects bank balance under the comparative balances for the financial year 2014/2015 of Kshs.397,382,932 (re-stated Kshs.8,848,051,762). The balance was carried forward to the financial year 2015/2016 as shown in the statement of financial position as at 30 June 2016. The unspent appropriation in 2014/2015 ought to have been paid back to the National Exchequer Account as required under Section 45 of the Public Finance Management Act, 2012. No explanation has been provided for failure to repay the unspent sum to the Exchequer.

Submission by Accounting Officer

The Accounting Officer stated that the statement of financial position reflects bank balance under the comparative balances for the financial year 2014/2015 of Kshs.397,382,932 (restated Kshs.8,566,405,036.00 and not Kshs.8,848,051,762) as disclosed under note 11 to the financial statements.The unspent cash book balance of Kshs.172,450,397.00 was carried forward to Financial Year 2015/2016 and was utilized to meet expenditures falling due early in the year. The same amount was recovered from the exchequer issue for the year under review. However, from financial year 2017/18 the unspent exchequer will be surrendered back to the exchequer.

Committee Observations and Findings

The Committee adopts its recommendation on the matter as it appears in the Committee's report on the examination of the Accounts of the Auditor General for the Financial Year 2014/2015.

GOVERNMENT OF KENYA SHARE SUBSCRIPTION AND CAPITAL CONTRIBUTION TO INTERNATIONAL ORGANIZATIONS – VOTE R-053

Basis for Adverse Opinion

67. Unsupported Balance

The statement of details of Kenya Government share subscription and capital contribution to international organizations under note 5 to the financial statements reflects local value of subscriptions totaling Kshs. 51,403,651,783 against various amounts in foreign currencies as at 30 June 2016. However, independent confirmation of balances as at 30 June 2016, were received from only four out of the twelve organizations.

In addition, the amount confirmed by two out of those four organizations differs with the balances reflected in the statement submitted by the National Treasury as follows:

Organization	Balance as per the Statement (Foreign currency)	Balance as per the Statement (Local value) Kshs.	Balance as per the Confirmation (Foreign currency)
(i) P.T.A. Bank Harare	USD 24,208,356	2,447,518,050	USD 25,967,315
(ii) Macro- Economic Financial Management Institute	USD 355,255	35,917,026	USD 384,162
Total		**2,483,435,076**	

No explanation has been provided for these differences.

In addition, independent confirmations of Government of Kenya share subscriptions and capital contribution balances as at 30 June 2016 were not received from the eight organizations listed below:

Organization	**Balance as per the Statement (Foreign currency)**	**Balance as per the Statement (Local Value) Kshs.**
(i) International Monetary Fund	SDR 258,124,458	36,444,592,225
(ii) International Bank for Reconstruction and Development	US 15,899,693	1,607,493,943
(iii) International Development Association Washington D.C	USD. 2,361,413	238,744,049
(iv) African Dev. Bank Abidjan	U.A 48,010,000	6,882,262,306
(v) Multilateral Investment Guarantee Agency	USD 622,383	62,924,291
(vi) Shelter Afrique	USD 7,007,546	708,478,317
(vii) East Africa Development Bank Kampala	USD 22,500,000	2,274,799,500
(viii) Africa Export-Import Bank	USD 2,391,807	241,816,950
Total		**48,461,111,580**

Further, the subscriptions for 2014/2015 totaling Kshs. 116,813,106,919 in respect of ten organizations were restated to Kshs. 49,750,957,607 by converting balances in foreign currencies obtained from the Organizations as tabulated in the following table:

Organization	Statement Balance-2014/15 (Foreign currency)	Statement Balance-2014/15 (Local Value) Kshs.	Statement Balance-2014/15-Restated (Foreign currency)	Statement Balance-2014/15-Restated (Local Value) Kshs.
(i) International Monetary Fund	SDR 261,156,794	36,397,422,380	SDR 254,797,122	35,974,805,711
(ii) International Bank for Reconstruction and Development	US 296,882,735	29,284,334,853	US 15,512,384	1,568,336,179
(iii) African Dev. Bank Abidjan	U.A 260,960,000	35,481,165,440	U.A 45,536,131	6,527,631,640
(iv) Multilateral Investment Guarantee Agency	USD 3,278,460	323,385,327	USD 607,222	61,391,486
(v) Shelter Afrique	USD 2,000,000	197,278,800	USD 6,836,846	691,220,133
(vi) East Africa Development Bank Kampala	USD 80,000,000	10,877,120,000	USD 21,951,911	2,219,386,500
(vii) P.T.A. Bank Harare	USD 26,680,000	3,627,519,520	USD 23,618,652	2,387,897,711
(viii) African Capacity Building Initiative	USD 250,000	24,659,850	USD 487,820	49,319,700
(ix) Africa Export-Import Bank	USD 5,960,000	587,890,824	USD 2,333,544	235,926,407

(x) Macro-Economic Financial Management Institute	USD 125,000	12,329,925	USD 346,601	35,042,140
TOTAL		**116,813,106,919**		**49,750,957,607**

However, notes explaining the restated balances were not presented for audit. Consequently, it has not been possible to confirm the validity and accuracy of the comparative balances as at 30 June 2016

Submission by Accounting Officer

The Accounting Officer stated that by the time of audit, four organizations namely African Capacity Building Foundation, P.T.A. Bank, International Finance Corporation and MEFMI had responded to our requests to confirm the status of Kenya`s subscriptions. However, the following additional seven institutions have since confirmed leaving only one namely International Monetary Fund (IMF) yet to confirm.

i. International Bank for Reconstruction and Development

ii. Multilateral Investment Guarantee Agency

iii. East Africa Development Bank

iv. International Development Association

v. African Export-Import Bank

vi. African Development Bank

vii. Shelter Afrique

Reminder has been sent to International Monetary Fund who is yet to confirm the balances as requested. Our last reminder was dated 10th March, 2017.

Further subscriptions in 2014/2015 totaling Kshs. 116,813,106,919 in respect of ten organizations, were restated to Kshs. 49,750,957,607 by converting balances in foreign currencies obtained to exclude a callable share.

Committee Observations and Findings

The Committee adopts its recommendation on the matter as it appears in the Committee's report on the examination of the Accounts of the Auditor General for the Financial Year 2014/2015.

4.0. THE PRESIDENCY

THE FINANCIAL STATEMENTS FOR VOTE 1101

Mr. Kinuthia Mbugua, the Accounting Officer, submitted evidence on the audited Financial Statements of Vote 1101 the Presidency for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Qualified Opinion

68. Confidential Expenditure

Examination of records show that the Presidency spent Kshs.2,729,192,010 on confidential expenditure in three (3) months financial years as follows: -

Financial Year	Amount (Kshs)
2013/2014	685,686,000
2014/2015	937,496,155
2015/2016	1,106,009,855
Total	**2,729,192,010**

Although, the Presidency has provided certificates to support the expenditure in accordance with Regulation 101(5) of the Public Finance Management (National Government) Regulations, 2015 and has explained that the purpose and particulars of the expenditure cannot be made public, unsatisfactory matters regarding the confidential expenditure have, however not been resolved as follows: -

68.1 Weakness in Controls

Audit revealed weak controls over confidential expenditure as payment vouchers are not supported with necessary documents that can be subjected to audit tests, to enable the Auditor-General to confirm that the expenditure was incurred for the intended purposes and therefore, lawful and effective as required under Article 229(6) of the Constitution of Kenya.

Submission by Accounting Officer

The accounting officer submitted that the Presidency adheres to the Public Financial Management Act 2012 regulations Section 101(5) which require the Accounting Officer to support confidential expenditure by appending a certificate that the money has been paid and is satisfied that the money has been properly expended and has not been used to supplement the emoluments of any officer.

For control purposes all approvals of confidential nature are approved personally by the Accounting Officer.

Committee Observation and Finding

The Committee noted that the supporting documents have since been availed and verified.

Committee Recommendation

Accounting Officers should at all times ensure that explanations sought by the Auditor-General plus the necessary supporting documents are provided on time to avoid audit queries.

68.2 Payments for Motor Vehicles

Examination of available records revealed that payments totaling Kshs.165,587,200.00 made to some companies for supply of motor vehicles during the year under review were charged to Item 2211312-Confidential Expenditure. Further, verification of IFMIS Ledger show that these payments were not posted in the IFMIS Ledger, an indication that they could have been unexplained cash withdrawals.

Submission by Accounting Officer

Records in our possession indicate that payments totaling Kshs.83,800,000.00 and not Kshs.165,587,200.00 was made to some companies for supply of motor vehicles and were charged to item 2211312 – Confidential expenditure. This difference arose because some of the payment vouchers included in the list were for the financial year 2016/2017.

Consequently, the payments totaling Kshs.83,800,000.00 were duly posted in IFMIS Ledger and value for money was obtained as the expenditure was rightfully charged. Copies of the payment vouchers were provided for the perusal by the Committee.

Committee Observation and Finding

The Committee noted that upon further verification of the payment vouchers, the Auditor-General was satisfied that the correct expenditure was properly charged and posted in IFMIS in the financial year 2015/2016

Committee Recommendation

Accounting Officers should at all times ensure that explanations sought by the Auditor-General plus the necessary supporting documents are provided on time to avoid audit queries.

68.3 General Suspense Account (6780101)

Examination of the General Ledger for 2015/2016 revealed that confidential expenditure totaling Kshs.105,000,000.00 was charged to Item 6780101 – General Suspense Account without verifiable source documents that indicate the approved allocation as required under Regulation 107(1) of Public Finance Management (National Government) Regulations, 2015. No satisfactory explanation has been provided for this anomaly.

In this regard, it was not possible to confirm that the confidential expenditure incurred on motor vehicles and other payments or charge to General Suspense Account during the financial year under review was lawful and that value for money was obtained as required under Section 68 (1) of the Public Finance Management Act, 2012 and Article 229(6) of the Constitution of Kenya.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that an expenditure of Kshs.105,000,000.00 was charged to item code 6780101 - General suspense account.

This amount was cash withdrawals erroneously charged to item code 6780101 - General Suspense account instead of the correct item code 6580101 - Cash account. The error was corrected and a copy of the ledger extract availed to the Committee for perusal

Committee Observation and Finding

The Committee noted that a journal voucher was subsequently passed to correct the mis-posting.

Committee Recommendation

Accounting Officers should at all times ensure that explanations sought by the Auditor-General plus the necessary supporting documents are provided on time to avoid audit queries.

69. Payments for Undelivered Items

Expenditure records show that goods worth Kshs.22,324,851.00 were requisitioned by various State Houses and Lodges, and were procured and received in Nairobi, then issued to respective stations. However, verification in various State Houses and Lodges undertaken during January and February 2017 revealed that these goods were never received and there were no documents in record maintained in the field to support receipt.

In the circumstances, the propriety of expenditure totaling Kshs.22,324,851.00 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that State House procured goods and services for various State Houses and State Lodges totaling Kshs.22,324,851.00

These goods were received through S13 (Counter Receipt Voucher) and then issued out through S11 (Counter issue Voucher). It is important to note that State Lodges do not maintain stores as they are direct point of use. Most deliveries were used during functions held at the State Houses and State Lodges.

Committee Observation and Finding

The Committee noted that the documents availed confirmed that the goods were actually received. However, physical confirmation was not possible since the items had been used at the time of verification.

Committee Recommendation

Accounting Officers should at all times ensure that explanations sought by the Auditor-General plus the necessary supporting documents are provided on time to avoid audit queries.

70. Pending Bills

Bills totaling Kshs.270,980,438.00 were pending as at 30 June 2016 as disclosed under Note 16 to the financial Statements. However, bills amounting to Kshs.61,537,194.00 of the total were not supported by invoices, delivery notes, contract documents and Local Purchase Orders. Consequently, their validity, legality, and accuracy could not be confirmed. Further, had the bills been paid and charged to the accounts for the 2015/2016, the statement of receipts and payments would have reflected a deficit of Kshs.211,819,430.00 instead of Kshs.59,161,008.00 now shown.

Submission by Accounting Officer

(i) It was true that during the year under review, the financial statements in Note 16, reflected pending bills amounting to Kshs.270,980,438.19.

Pending bills totaling Kshs.209,407,244.85 out of Kshs.270,980,438.19 was availed to the Auditor which represented what had been paid as at the time of request.

The balance of Kshs,61,573,193.34.00 represented pending bills that had not been paid at the time the request was made. These payments were later processed, paid and were properly supported by invoices, delivery notes, contract documents and local purchase orders. Copies were attached for perusal by the Committee.

(ii) During the year under review The Presidency was allocated total budget of Kshs.8,899,131,871.00. However, it only received exchequer issue of Kshs.8,334,649,364.00 causing an under issue of Kshs.564,482,507.00. Had the National Treasury funded the full budget, the pending bills would havebeen paid. The pending bills were subsequently paid as a first charge in the following financial year 2016/2017.

Committee Observation and Finding

The Committee noted that pending bills with support documents have since been availed and settled.

Committee Recommendation

1. **Accounting Officers must at all times ensure that explanations sought by the Auditor-General plus the necessary supporting documents are provided on time to avoid audit queries.**
2. **The National Treasury should endeavor to release exchequer in full and on time for all budgeted projects to avoid accumulation of pending bills.**

71. Outstanding Imprests

As disclosed under Note 13 to the financial statements, imprests totaling Kshs.1,197,000.00 which ought to have been surrendered or otherwise accounted for on or before 30 June 2016 were outstanding as at 30 June 2016. Further, IFMIS generated imprest register and trial balance reflect instead outstanding imprests of Kshs.2,033,608.00 and Kshs.9,117,357.00, respectively as of that date. The resulting differences among the three (3) months sets of records has not been reconciled or satisfactorily explained.

Submission by Accounting Officer

It was true that the Financial Statement for the year ended 30th June 2016, show outstanding imprest balance of Kshs.1,197,000.00, which ought to have been surrendered or accounted for on or before 30th June, 2016. It was also true that as at 30th June, 2016 outstanding imprests amounting to Kshs.1,197,000 had not been accounted for, however, the full amount has now been surrendered leaving a nil balance.

Further, it was true that the IFMIS generated imprest register and the trial balance shows outstanding imprest of Kshs.2,033,608.00 and Kshs.9,117,356.60 respectively. These two figures were auto generated by the IFMIS and have since been reconciled and cleared.

Committee Observation and Finding

The Committee noted that all outstanding imprests have since been surrendered and the necessary reconciliations done.

Committee Recommendation

Accounting Officers mustat all times ensure that explanations sought by the Auditor-General plus the necessary documents are provided on time to avoid audit queries.

72. Fixed Assets Register

Although a summary of fixed assets acquired in 2014/2015 and 2015/2016 has been disclosed under Note 17 to the financial statements, an assets register has not been maintained, contrary to Regulation 143 of the Public Finance Management (National Government) Regulations, 2015. Consequently, the existence, value, completeness and legal ownership of all the assets could not confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the Presidency maintains Fixed Asset Register for all its Assets with proof of existence, value, completeness and legal ownership. Enclosed is The Presidency Fixed Asset Register. However, during the audit, the register was being updated.

Committee Observation and Finding

The Committee noted that even though the fixed asset register was not in place at the time of audit, it has since been updated.

Committee Recommendation

Accounting officers must at all times ensure that explanations sought by the Auditor-General plus the necessary supporting documents are provided on time to avoid audit queries.

5.0. STATE DEPARTMENT FOR INTERIOR

FINANCIAL STATEMENTS FOR VOTE 1021

Dr. Eng. Karanja Kibicho, the Accounting Officer for Vote 1021, State Department for Interior accompanied by Major (Rtd) Dr. Gordon Odemo Kihalangwa; Principal Secretary Immigration appeared before the Committee on 11th May 2018 to adduce evidence on the audited Financial Statements of Vote 1021 State Department for Interior for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. They were accmpanied by the following officials:

1. **Mr. Joseph K. Boinnet -Inspector General of Police;**
2. **Mr. Amos N. Gathecha - Secretary Internal Security;**
3. **Mr. Mwinyi M.M., OGW, HSC - Director Logistics, Administration Police;**
4. **Mr. George Kinoti - Director of Criminal Investigation;**
5. **Mr. Rogers M. Mbithi - Director National Police Service Air wing;**
6. **Ms. Louise Kibicho AAG Immigration;**
7. **Mr. Joseph Kiget - Director National Police Service;**
8. **Mr. Reuben Kimotho - Director NILB;**
9. **Ms. Janet W. Muchemi - Director Civil Registration;**
10. **Mr. W. Githui - Director IPR Services;**
11. **Mr. Dan Mwangi - PS Office Interior;**
12. **Mr. Benson Guthua - Director Interior;**
13. **Mr. Peter N. Mwita - National Police Service;**
14. **Mr. Joseph P. Munywoki – Ag. Director Immigration;**
15. **Mr. Kenneth Mwangi - Interior;**
16. **Mr. Elias Dulo - Procurement Officer;**
17. **Mr. Charles Kimotho - Accountant Interior; and**
18. **Mr. Christopher Keter, CSCMO National Police Service**

Basis for Qualified Opinion

73. Bank Account Number 1109896077 at Kenya Commercial Bank (KCB), Moi Avenue

Examination of the availed bank statement reveals that the State Department for Interior transferred Kshs.8,696,113,050.00 to bank account No.1109896077 at Kenya Commercial Bank (KCB) Moi Avenue Branch between June 2013 and January 2017. However, unsatisfactory matters have been observed as follows;

73.1 Non-Disclosure of the Account

The Ministry opened and has been operating bank account No.1109896077 at KCB contrary to Section 28(1) of the Public Finance Management Act, 2012 which requires authority of the National Treasury to open and operate bank accounts.

Further, the Ministry does not maintain a cash book, bank reconciliations and related payment records in support of cash transfers and withdrawals from the account, contrary to Regulations 90 and 104 of the Public Finance Management (National Government) Regulations, 2015.

In addition, audit of the Ministry's financial statements for the year ended 30 June 2016 did not disclose the balance in this account contrary to Regulation 87(3) (h) of the Public Finance

Management (National Government) Regulations, 2015 which requires the accounting officer of a National Government Entity to provide a list of all bank accounts with information of bank account balances as at 30 June each year.

Submission by Accounting Officer

The Accounting Officer submitted that the bank account no.1109896077 at Kenya Commercial Bank is not a Ministry account. It is a Kenya Commercial Bank (KCB) internal collection Account. The State Department for Interior buys goods and services from both local and Foreign Suppliers. During the financial year 2015/2016, State Department procured goods and services from foreign suppliers using Letter of Credit (L.C).

The accounting officer further noted that the Ministry maintains cash books for Recurrent and Development Bank Accounts. Bank reconciliation statements for the Ministry's bank accounts held at the Central Bank of Kenya (for both Recurrent and Development Accounts) are prepared on a monthly basis. All payments for Letters of Credit (LC) related contracts are effected through the Ministry's bank account at Central Bank of Kenya. The KCB account to which funds are transferred is a bank internal account. The submitted financial statements for the year ended 30th June 2016 included details of the bank accounts the Ministry operates. The account in question is not one of the Ministry's bank accounts.

Committee Observations and Findings

- **(i) The Committee noted that bank account 1109896077 was an internal collection account operated by Kenya Commercial Bank for clearance of the LCs issued on behalf for the Ministry of Interior;**
- **(ii) The Departmentoperated a Letter of Credit Account at KCB for purposes of foreign purchases.**

Committee Recommendations

The National Treasury should, within one (1) month of adoption of the Report, give an advisory to the National Assembly on the circumstances surrounding the account and its operations for deliberation and consideration with the aim of making further recommendations on the matter.

73.2 Irregular use of Letters of Credit (LC)

Examination of available records show that forty-three (43) LCs valued at Kshs. 8,696,113,050.00 were paid through the account by the State Department for Interior. However, the bank statements availed for audit reflect one (1) payment of LC amounting to Kshs.90,225,000.00. In this regard therefore, the Ministry and the bank have not clarified how the other forty-two (42) LCs valued at Kshs.8,605,888,050 were discharged.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the 43 LC's were opened by the State Department for Interior. According to our records all the 43 LC's were discharged.The Ministry maintains a record of all transactions undertaken using letters of credit (L.C). All payments for LC transactions are reflected in the Ministry's bank accounts held at Central Bank of Kenya (CBK) and National Bank of Kenya Account Number 01001000904600. The account which Kenya Commercial Bank operates to implement the Letter of Credit (LC) is their internal account.

Committee Observations and Findings

The Committee noted the discrepancy in the number of letters of credit opened and eventually discharged. There was a need for further verification to ascertain the true position.

Committee Recommendations

The Auditor-General should, within three (3) months of adoption of the Report, carry out a further audit on the forty-two (42) LCs valued at Kshs. 8,605,888,050.00used for procurement of goods and services from both local and foreign suppliers and present his findings to the National Assembly for necessary action.

73.3 Incomplete Bank Statements

Examination of payment vouchers show that the State Department transferred Kshs. 339,982,351.00 on 30th June 2015 through Payment Voucher Numbers 329 and 333 to the account. However, the bank statement made available for audit does not reflect receipt of this amount, an indication that the statement is neither authentic nor complete.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that an amount totaling Kshs. 339,982,351.00 was paid to Kenya Commercial Bank on 30th June 2015 vide payment vouchers numbers 329 and 333 through our National Bank Account.

The amount was used to open a letter of credit (LC) to facilitate purchase of goods for the Police Department. The Kenya Commercial Bank account to which the amount was paid is a KCB internal account.I wish to confirm that the contract was effectively finalized and the bank discharged its obligation by transferring the funds to the beneficiary/supplier.

Committee Observations and Findings

(i) **The State Department transferred Kshs. 339,982,351.00 to Kenya Commercial Bank on 30th June 2015 vide payment vouchers numbers 329 and 333 through our National Bank Account.**

(ii) **The amount was used to open a letter of credit (LC) to facilitate purchase of goods for the Police Department. The Kenya Commercial Bank account to which the amount was paid is a KCB internal account. Further, the contract was effectively finalized and the bank discharged its obligation by transferring the funds to the beneficiary/supplier.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

73.4 Unaccounted for Cash Transfers

Examination of the bank statement further reveals unexplained transfer of Kshs. 12,688,796,960.00 to Call Deposit at INSTB; Fixed Deposit at INSTB; Euro Call Deposit and USD Call Deposit Accounts contrary to Section 87(1) (b) of Public Financial Management Act, 2012 which requires prior approval by the Cabinet based on recommendations from the National Treasury. In addition, repayments, interest and proceeds received back to the account are Kshs. 4,211,839,878.00 resulting in unaccounted for balance of Kshs. 8,476,957,081.00.

Submission by Accounting Officer

The Accounting Officer submitted that the bank statement examined relate to a Kenya Commercial Bank (KCB) internal account which was explained in our response to paragraph 73.1. The transactions appearing in the statement are internal to the operations of the bank which the Ministry has no control.

Committee Observations and Findings

The bank statement examined related to a Kenya Commercial Bank (KCB) internal account

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

74. Procurement of Twin Turbine Engine VIP Carrier Helicopter – Kshs. 2,276,740,840.00

74.1 Contract Documents

Although tendering and contract documents have not been availed for audit review, the State Department has explained that the purchase of helicopter is classified.

Submission by Accounting Officer

The accounting officer submitted that although tendering and contract documents have not been availed for audit review, the State Department has explained that the purchase of helicopter was classified. The contract documents were availed to the audit team for scrutiny.

Committee Observations and Findings

The State Department did not provide on time for audit review all tendering and contract documents.

Committee Recommendations

The Accounting should always ensure that contracts and tenders documents including for classified contracts are availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 which gives the Auditor-Genial powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities.

74.2 Payment Records

Although the entire contract sum of Kshs.2\,276,740,840.00 has so far been paid through a Letter of Credit, the State Department has only availed Payment Voucher No. 328 dated 30 June 2016 for Kshs. 683,022,252.00, being 30% of the contract sum and Voucher Number 366 dated 25 August 2015 for Kshs.38,801,748.00 in respect of shortfall in exchange rate difference.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the purchase of Twin Turbine Engine VIP Carrier Helicopter was a classified contract. The payment vouchers supporting the 70% of the contract sum are available for audit review.

Committee Observations and Findings

(i) The State Department only availed at the time of audit, the payment voucher no. 328 dated 30th June 2016 for Kshs. 683,022,252.00, being 30% of the contract sum and voucher numbers 366 dated 25thAugust 2015 for Kshs.38,801,748.00 in respect of shortfall in exchange rate difference; and

(ii) Payment Voucher No. 003419 (Annex 2B) dated 21 January 2016 for Kshs. 1,391,364,200.00 being 2nd payment of 60% of the contract sum and another undated one referred to as Annex 2A for Ksh.235,858,464.00 being payment of 10% third and last payment of the contract sum were provided to the Committee during the hearings were eventually availed for verification.

Committee Recommendations

(i) The Accounting should always ensure that all payment vouchers including for classified contracts are availed for audit review in line with the provisions of Section 9(1e) of the Public Audit Act, 2015 which gives the Auditor-Genial powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities; and

(ii) The Auditor-General should undertake a further audit of the Ksh.72,305,824.00 paid in excess for the Twin Turbine Engine VIP Carrier Helicopter with a view to establishing whether there was value for money and report back to the National Assembly.

74.3 Accident of the Helicopter

Examination of records show that Augusta Westland AW-139 Helicopter (5Y-NPS) was registered on 26 April 2016 and crashed on 08 September 2016 at a time when the helicopter should have been under warranty. However, further investigations could not be carried out on the loss arising from the accident as required under regulation 159 of the Public Finance Management (National Government) Regulations, 2015 due to the following reasons:

74.3.1 Accident Report

There is no accident report as required under Regulation 148 of the Public Finance Management (National Government) Regulations, 2015. In the absence of the accident report, it is not possible to categorize the loss of helicopter in terms of natural cause; technical or pilot's error, the basis upon which the loss could be recovered. No explanation has been given for failure to release the accident report by the Cabinet Secretary in accordance with Regulation 18(1) of Civil Aviation (Aircraft Accident and Incident Investigation) Regulation 2013.

Submission by Accounting Officer

The Accounting Officer submitted that there was no accident report as at the time they reported to the committee as the investigations were still on-going spearheaded by the technical state department namely State Department of Transport (Aircraft Accident and Incident Investigation). However, a preliminary report was availed for perusal and the final report will be released immediately it becomes available.

Committee Observations and Findings

There was no air accident report as at the time they appeared before the committee as the investigations were still on-going spearheaded by the technical state department namely State Department of Transport (Aircraft Accident and Incident Investigation)

Committee Recommendations

The Accounting Officer should ensure that within three (3) months of adoption of this Report, the air accident report is submitted to the Auditor-General for review.

74.3.2. Insurance

The department confirmed that the Helicopter was not insured just like any other Government Equipment which further complicates the recovery of the loss totaling Kshs. 2,276,740,840.00.

Submission by Accounting Officer

The Accounting Officer submitted that the helicopter had not been insured at the time of the accident as all other helicopters belonging to the National Police Service. This would require huge budgetary outlays to finance the insurance. However, KCAA has demanded that all aircrafts as all the personnel be insured as this is mandatory requirement going forward. Nevertheless, if funds become available, the Service will explore possibilities of insuring all the aircrafts and personnel manning these air crafts.

Committee Observations and Findings

(i) That the Augusta Westland AW-139 Helicopter (5Y-NPS) which cost the taxpayers money worth over Kshs.2,276,740,840.00 was not insured at the time of accident;

(ii) All other aircrafts being used by the National Police Service were not insured because of the huge budgetary outlays to finance the insurance costs. However, KCAA has demanded that all aircrafts as all the personnel be insured as this is mandatory requirement going forward. Nevertheless, if funds become available, the Service will explore possibilities of insuring all the aircrafts and personnel manning these air crafts.

Committee Recommendations

The Accounting Officer should ensure that all aircrafts and personnel manning National Police Aircrafts are insured to cover the costs in case of accident.

74.3.3 Warranty

The Ministry has further confirmed through a letter Ref: NPS/IG/SEC/1/3/1/6 VOL. I dated 10 May 2017 that "the helicopter did not have a warranty as a unit but parts such as avionics had."

However, failure to avail required warranties for avionics in accordance with Section 9(1) (e) of the Public Audit Act, 2015, makes it impossible to determine whether the helicopter was new or refurbished. In addition, the Department has not given details of avionics parts purportedly under warranty or given reasons for failure by the manufacturer to compensate lost parts under warranty.

Submission by Accounting Officer

The helicopter did not have a warranty as a unit but the parts such as avionics parts had. The avionics are a huge pack of documents that are currently held in secure custody by the Director of NPS Air wing at Wilson Airport and are readily available for scrutiny whenever required.

The following documents further demonstrates that the helicopter was new;

a) Aircraft logbook that indicate the historical records of the helicopter showing the number of landings.
b) Engine number times showed 12hours 25 minutes.
c) Number of starts had done 18 starts same as engine number 2.
d) Slight hours performed after assembly and delivery to Nairobi had done 12hours 25minutes.
e) The logbook is a file containingliftedcomponents of zero (0) hours before flight.

Committee Observations and Findings

The helicopter Augusta Westland AW-139 Helicopter (5Y-NPS) did not have a warranty as a unit but the parts such as avionics parts had;

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

74.3.4 Documents not availed for Audit Review

The department has not availed documents requested through letter Ref: NS/SDI/NPS/IG/3 dated 26 September 2016 and reported to have been collected by Air Accident Investigation Unit as follows: (i) Two (2) Engine Technical Logs – PCE-KB1812 and PCE-KB1817 (ii) Two (2) Helicopter Log Books (iii) Original Techsheets (iv) Two (2) KCAA Engine Log Books (v) KCAA Aircraft Log book (vi) Two (2) Aircraft Technologies (vii) Maintenance File

Submission by Accounting Officer

The accounting officer submitted that the documents are currently held in secure custody by the Director of NPS Air wing at Wilson Airport and are readily available for scrutiny whenever required.

Committee Observations and Findings

(i) The State Department did not avail at the time of audit, documents requested through letter Ref: NS/SDI/NPS/IG/3 dated 26 September 2016 and reported to have been collected by Air Accident Investigation Unit. The documents included: Two (2) Engine Technical Logs – PCE-KB1812 and PCE-KB1817, Two (2) Helicopter Log Books, Original Techsheets, Two (2) KCAA Engine Log Books,KCAA Aircraft Log book, Two (2) Aircraft Tec logs, and Maintenance File; and

(ii) The documents are currently held in secure custody by the Director of NPS Air wing at Wilson Airport and are readily available for scrutiny whenever required.

Committee Recommendations

The Accounting Officer should always ensure that all documents availed for audit review in line with provisions of Section 9(1e) of the Public Audit Act, 2015 which gives the Auditor-Genial powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities. Further, accounting officer should submit the documents to the Auditor-General for review.

75. Irregular Procurement of Footwear – Kshs. 267,876,000.00

75.1 Excess Purchase of Footwear

Examination of the approved Procurement Plan for the 2014/2015 financial year show that 26,500 pairs of footwear were approved for purchase. However, details disclosed on payment vouchers show that 78,000 pairs of footwear valued at Kshs. 267,876,000 were supplied and paid for. It is therefore evident that 51,500 pairs of footwear valued at Kshs.175,893,000 were purchased and paid in excess of the approved quantity contrary to Section 51(3) of the Public Finance Management (National Government) Regulations, 2015 which requires commitments of expenditures to be consistent with approved procurement plan for the entity. Further, the State Department has explained that the procurement of additional pairs of shoes was necessitated by recruitment of 10,000 police trainees. However, verifications show that 4,000 trainees were at Kenya Police Training College in Kiganjo and 2,000 trainees were at General Service Unit (GSU) while the procurement of additional 4,000 footwear for the Administration Police officers was undertaken and paid for separately.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there was a procurement of 51,500 pairs of footwear in excess of quantities approved in the Kenya Police Service original procurement plan which was later revised due to the following reasons:

(i) In the financial year 2014/2015 the departmental procurement plan requirements were /KPS shortfall of 33,500 pairs to meet the demand for the serving officers across the country.
(ii) In the same financial year a directive was issued to recruit an additional 10, 000 police officers, necessitating the Kenya Police Service to procure the additional shoes.

The service, requested for authority to procure additional 51500 pairs of footwear vide letter SEC.POL.1/1/25/2/VOL.XLV/46 dated 16th March, 2015 to the Ministerial Tender Committee which was approved.

Committee Observations and Findings

(i) The Accounting Officer requested for additional 51,500 pairs of footwear vide letter SEC.POL.1/1/25/2/VOL.XLV/46 dated 16th March, 2015 to the Ministerial Tender Committee which was approved.
(ii) The ministerial Tender Committee approved the request for additional 51,500 pairs of footwear vide letter MICNG/MTC/27/2014-2015 (13).

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved. Further, the Accounting Officer should ensure prudent use of all items and goods supplied to the Kenya Police Service to avoid wastage and loss of public funds.

75.2 Fictitious Entry in Stores Records

Audit has also established that information disclosed on stores ledger and stock control (S3 card) No.A241223 for shoes has been fraudulently falsified as the same card number discloses different information on 19 April 2016 and 31 May 2017.

In addition, examination of stores card numbers A241057 and A268592 reflects unexplained increase of 5,000 and 2,000 pairs of footwear respectively, whose source of receipts have not been indicated or explained.

Submission by Accounting Officer

The Accounting Officer submitted that the S3 Card number A241223 had the opening entry made on 4/11/2015 while the closing entry was made on 10/11/2015.

The closing balance of card no. 241223 was transferred to card No. 241295 on 25/11/2015 as the opening balance. The entries in the card have been checked against S12 (receipt and issue vouchers) and were confirmed to be correct.

Committee Observations and Findings

(i) **The information disclosed on stores ledger and stock control (S3 card) No.A241223 for shoes appears to have been fraudulently falsified as the same card number discloses different information on 19 April 2016 and 31 May 2017. In addition, examination of stores card numbers A241057 and A268592 reflects unexplained increase of 5,000 and 2,000 pairs of footwear respectively, whose source of receipts have not been indicated or explained; and**

(ii) **The closing balance of card no. 241223 was transferred to card No. 241295 on 25/11/2015 as the opening balance. The entries in the card have been checked against S12 (receipt and issue vouchers) and were confirmed to be correct.**

Committee Recommendations

The DCI and EACC is directed to carry out an investigation into the fictitious records for store records for S3 card numbers A241223, A241295, A241057 and A268592 with a view to establishing whether there was a loss of public money and initiating prosecution against persons found culpable.

75.3 Physical Verification of Footwear

75.3.1 Reconciliation of Footwear

A reconciliation undertaken on sample basis for twelve (12) Police Divisions across the country show that 454 pairs of foot wear were ordered and 63 pairs were issued while the record at Police

Quarter Master in Nairobi is falsified to indicate that 392 pairs of footwear were issued.

Further, examination of records show that fifty seven (57) police field units had requested for 12,852 pairs of foot wears and they were issued with 3,763 pairs resulting in a shortfall of 9,089 pairs that were not available in the store.

Submission by Accounting Officer

The Accounting Officer stated that the footwear which include ankle high boot men, ankle high boot ladies, ladies shoes and suede leather boots (safari boots) were distributed to all counties, divisions and formations and to the recruits.

Committee Observations and Findings

The distribution list was provided to the Committee without any proof of receipt by any Officer Commanding Police Division from any County.

Committee Recommendations

The DCI and EACC is directed to carry out an investigation into the distribution of 12,852 pairs of foot wears to fifty-seven (57) police field units across the Countrywith a view to establishing whether there was a loss of public money and initiating prosecution against persons found culpable.

75.3.2 Conditions of Shoes Being Used by Police

A physical check of the condition of shoes being used by the police across the country revealed a pathetic and unpleasant situation as some officers' use worn out shoes while others have opted to buy shoes from various vendors. This action contravenes Chapter 37 Section 7(i) and 19(i) on dress regulations for police officers under standing orders which require all police officers to be in uniform.

Submission by Accounting Officer

The Accounting Officer stated that they have been trying to provide uniform to officers within the available budget, however the annual budgetary allocation has not been sufficient to meet the demand. As part of modernization in the Kenya Police Service the issue of uniform and equipping the service is paramount in improving the general welfare of police officers.

Committee Observations and Findings

Some Police Officers across the country use worn out shoes while others have opted to buy shoes from various vendors. This situation contravenes Chapter 37 Section 7(i) and 19(i) on dress regulations for police officers under standing orders which require all police officers to be in uniform.

Committee Recommendations

The Accounting Officer should ensure that all Police Officers are well dressed in Police Uniform in line with Chapter 37 Section 7(i) and 19(i) on dress regulations for police officers under standing orders.

76. Irregular Procurement of Motor Cycles and Loss of Kshs. 174,806,140.00

76.1 Procurement Plan

Examination of records relating to the procurement of motor cycles at a total cost of Kshs.866,200,000.00 show that the purchase was not included in the Approved Procurement Plan for the Financial Year 2015/2016, contrary to Regulations 51(3), (5) and (6) of the Public Finance Management (National Government) Regulations, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry procured motor cycles at a total cost of Kshs. 866,200,000.00 for the Financial Year 2014/2015 and 2015/2016 for use by Chiefs and Assistant Chiefs in all Counties. The Procurement was included in the revised procurement plan as an addendum to procurement plan for financial years 2014/2015 / 2015-2016 which was approved by the accounting officer and this was also part of Ministry's Strategic Plan (2013-2017).

Committee Observations and Findings

As part of enhancing mobility of the Officers under the Ministry, provision of Motorcycles for Chiefs and Assistant Chiefs was one of the strategies as captured in the Ministry's Strategic Plan (2013 – 2017). The Ministry revised its procurement plan for 2014-2015 to include procurement of Motorcycles for Chiefs and Assistant Chiefs across the entire Country.

Committee Recommendations

The explanation by the accounting oficer was satisfactory. The Accounting Officer should ensure that all items of procurement nature captured in the Strategic Plan are captured intheProcurement Plan within the specified timelines in the Strategic Plan.

76.2 Expired Contract

Examination of records show that a supplier was paid Kshs.866,200,000.00 for the delivery of 4,420 motor cycles. However, the procurement was based on expired supplies branch tender no. SB/18/2013/2014-Supply of Motor cycles which is not provided for in the Public Procurement and Asset Disposal Act, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that the Ministry used Supplies Branch Contract number S/69621, which was contacted through an open tender. The first batch of 2000 number of motor cycles was purchased on March 2015 using the same contract which was expiring on January 19, 2016. The second batch of 2970 motor cycles was purchased on April 2016 using Supplies Branch Circular No. R06/2015-2016 which was expiring on June 30th 2016**.** This Supplies Branch contract had therefore not expired; further the procuring entity also supported this purchase by the use of Direct Procurement Method in accordance with section 103 (1) (d) of Public Procurement and Asset Disposal Act 2015 for reasons of compatibility and standardization of technology.

Committee Recommendation

The explanation by the Accounting Oficer was satisfactory.

76.3 Over Pricing of Motorcycles

Records further show that, five (5), out of seven (7) prequalified suppliers were contracted through the expired tender to supply 2420 Chinese assembled motorcycles (181-200 cc). However, the State Department has not justified the basis for procuring the motorcycles at a unit rate of Kshs. 210,000.00 instead of the lowest evaluated bidder's rate of Kshs. 161,733, resulting in a loss of Kshs. 116,806,140.00. In addition, the State Department procured another 2000 Chinese assembled motorcycles (151-180cc) at a unit rate of Kshs. 179,000.00 instead of the lowest bidder's rate of Kshs. 150,000.00 resulting in a loss of Kshs. 58,000,000.00. The State Department, therefore, paid a total of Kshs. 174,806,140.00 in excess of the prevailing market price contrary to Regulation 10(2) (e) of the Public Procurement and Disposal Regulations, 2006.

Submission by Accounting Officer

The Accounting Officer submitted that hose motorcycles were bought at the prevailing market prices for the model and specification of the preferred motorcycle KTM/TM based on an open tender. It was erroneous to compare prices of different framework contracts as these prices were not based a tender, but concluded contracts for different model and specifications of motorcycles for use by procuring entity based on their preference and justifications.Different models have different prices and the Supplies Branch framework contracts usually present a choice to Ministries and Departments to issue orders to the preferred supplier.

The procuring entity had the following justifications for selecting KTM /TM motorcycle model;

(i) The KTM /TM motorcycle model is highly rated because of its performance and low maintenance cost as compared to other models in our fleet
(ii) The motor cycle parts are manufactured in Japan and assembled in Kenya
(iii) M/s Rocky Africa has a good past record having supplied motorcycle to the following government institutions office of the president, Public health, they have also been supplied to Murang'a, Bungoma, Kiambu and Samburu Counties,
(iv) M/s The Car Expert Ltd was contracted to supply 482 number of motor cycles in 2011 and up to date he has not registered 18 motorcycles
(v) M/s Rene enterprises was awarded for Re-shine YH150GY\China, this model is a 150CC motorbike which has a low performance, due to low rating, compared to KTM/TM 175GY-2 Japan which is a 175CC hence its low quoted price of Kshs. 150,000.00. Additionally, this bidder was a new entrant with no past record.
(vi) The rest of the suppliers M/s Toyota Kenya and M/s Equip Agencies were not considered since they quoted Kshs. 475,500.00 and Kshs. 268,000.00 respectively higher than M/s Rocky Africa.

Committee Observations and Findings

The explanation by the Accounting Officer was satisfactory.

76.4 Verification of Motor Cycles

Although, these motorcycles were verified and found to exist, challenges relating to maintenance due to lack of spares and failure to provide helmets were observed.

Submission by Accounting Officer

The Accounting Officer submitted that there was a one year warranty which the supplier abided by though repairing and he went a step ahead to withdraw and replace a few motorcycles which had complications. Spare parts are also available because the bidder gave us a list of spare parts agents/dealers in all counties across the country. Initially there were challenges for supply of the helmets but this was overcome.

Committee Observations and Findings

The explanation by the Accounting Officer was satisfactory.

76.5 Value for Money

In the above circumstances, the value of Kshs.174,806,140.00 paid in excess of prevailing market price could not be confirmed as required under Section 68(1) (b) of Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer submitted that the feedback we have received from the users, chiefs and assistant chiefs, on the performance and efficiency of the motorcycles the Ministry got value for money. This has also enhanced service delivery at counties hence there was no loss of public funds.

Committee Observations and Findings

The explanation by the Accounting Officer was satisfactory.

Committee Recommendations

The Accounting Officer must at all times ensure that the resources of the respective entity for which he or she is the accounting officer are used in a way that is lawful, authorized, effective, efficient, economical and transparent as provided under section 68(1)(b) of Public Finance Management Act, 2012.

77. Unaccounted for Authority to Incur Expenditure – Kshs. 150,000,000.00

The statement of receipts and payments for the year ended 30 June 2016 reflects Kshs.30,134,231,598.00against use of goods and services which includes Kshs.150,000,000.00 in respect of Authority to Incur Expenditure serial no. A659460 issued to the Regional Commissioner, North Eastern and charged to item 2211313 (Security Operations). The Ministry has not explained reasons for issuing the AIE for security operation to the regional commissioner instead of National Police Service defined as a National Security Organ in Article 239(1) (c) of the Constitution. In addition, no expenditure returns have been provided in support of Kshs.150,000,000.00.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments for the year ended 30 June 2016 reflects Kshs.30,134,231,598.00 against use of goods and services which includes Kshs.150,000,000.00 in respect of Authority to Incur Expenditure serial no. A659460 issued to the Regional Commissioner, North Eastern and charged to item 2211313 (Security Operations). The accounting officer further noted that the ministry has a budgetary allocation under Head 1021-001-303 Regional Security Coordination North Eastern to cater specifically for security operations in North Eastern. The amount in aggregation with other related allocations was expended as evidenced by the expenditure return and status report for the month ending 30th June 2016 from Garissa District Treasury.

Committee Observations and Findings

The explanation by the Accounting Officer was satisfactory.

78. Mismanagement of Funds at Murang'a South – Kshs. 4,540,900.00

78.1 Unlawful Transfer of Funds

Kshs.1,529,628.00 was transferred from bank account No. 01001000904600 maintained by Kenya Police Headquarters at National Bank of Kenya, Harambee Avenue to Kenya Commercial Bank account No. 1145500218 for Ministry of Interior and Coordination of National Government Office of the President Murang'a South Current Account – Central. Similarly, Kshs. 3,750,000.00 was transferred from Central Bank of Kenya Agency Account No. 1100000836, State Departments for Interior and Coordination of National Government to the same account. However, these transfers were not supported by pre-numbered payment and receipt vouchers, appropriate authority and documentation contrary to Regulation 104 (1) of the Public Finance (National Government) Regulations, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Kshs. 1,529,628.00 was transferred from Kenya Police National Bank account no. 01001000904600 to KCB account no.1145500218 for Ministry of Interior and Coordination of National Government- Murang'a South. The amount transferred relate to funding for A.I.E no. A718987 being 1st quarter allocation for the County Police Commander.

Central Bank account no. 110000836 does not belong to the State Department of Interior and the transfer of Kshs.3,750,000.00 is being investigated by the Directorate of Criminal Investigation.

Committee Observations and Findings

(i) The Accounting Officer acknowledged that there was a possible mismanagement of Kshs.4,540,900 at Murang'a South office;
(ii) Central Bank account no. 110000836 where transfer of Kshs.3,750,000.00 came from does not belong to the State Department of Interior; and
(iii)The Directorate of Criminal Investigation was investigating the incident where Kshs.3,750,000.00 was transferred from a strange account (Central Bank account no. 110000836) to the Kenya Commercial Bank account No. 1145500218 for Ministry of Interior and Coordination of National Government Office of the President – Murang'a South Current Account – Central.

Committee Recommendation

The DCI is directed to complete, within three months of adoption of this Report, investigations relating to the transfer of Kshs.3,750,000.00 from Central Bank account no. 110000836 to Kenya Commercial Bank account No. 1145500218 for Ministry of Interior and Coordination of National Government Office of the President – Murang'a South Current Account – Centralwith a view to establishing whether there was fraud, mismanagement and loss of public money and initiating prosecution against persons found culpable.

78.2 Unlawful Cash Withdrawal of Kshs. 4,540,900.00

Examination of cashbooks and payment vouchers maintained at Murang'a South District Treasury – Kenol reveals that fictitious payment vouchers were prepared, posted to cashbook and used to withdraw Kshs.4,540,900.00. Further, payment voucher numbers 27 and 28 for Kshs.840,000.00 and Kshs.450,000.00 respectively were not committed in the Vote Book, therefore, missing in the ledger. Although the State Department has explained that the matter is being handled by the Directorate of Criminal Investigations, the loss has not been recovered.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the matter is being investigated by the Directorate of Criminal Investigation Department. The department is analyzing the conclusion of investigation.

Committee Observations and Findings

(i) **Withdrawal of Kshs. 4,540,900.00 may have been unlawful and the national Treasury wrote to the Director Criminal investigations to visit Treasury Offices at Murang'a investigations in 2016 vide letter reference number AG.20/068 VOL.4 (34) dated 29th June 2016 which was a reply one from DCI of reference number DIC/IB/ECCU/SEC/4/4/1/VOL.XXIII/133 dated 27th June 2016.**

(ii) **As at 11th May 2018 the DCI had not concluded the investigations on the amount of Ksh. 4,540,900.00 which is in one single area – Murang'a South.**

Committee Recommendations

The DCI should withinthree months (3) upon adoption of this report submit to the National Assembly the report on the investigations of the Unlawful Cash Withdrawal of Kshs.4,540,900.00 from a Kenya Commercial Bank account No. 1145500218 for the Ministry of Interior and Coordination of National Government Office of the President – Murang'a South Current Account – Central.

78.3 Missing Payment Vouchers

Payment vouchers for amounts totaling Kshs. 3,872,900.00 were not availed for audit verification. As a result, the validity and propriety of the expenditure could not be ascertained.

Submission by Accounting Officer

It was true that the matter is being investigated by the Directorate of Criminal Investigation Department. The department is analyzing the conclusion of investigation.

Committee Observations and Findings

(i) **The Directorate of Criminal Investigation had taken 2 years to investigate the incident where Kshs.4,540,900.00 was reported as having been mismanaged and fictitious payment vouchers were prepared, posted to cashbook and used to withdraw the same; and**

(ii) **As at 11th May 2018 the DCI had not concluded the investigations into amount of Kshs. 4,540,900.00 which in one single area – Murang'a South.**

Committee Recommendations

The DCI should withinthree months (3) upon adoption of this report submit to the National Assembly the report on the investigations into the Unlawful Cash Withdrawal of Kshs.4,540,900.00 from a Kenya Commercial Bank account No. 1145500218 for the Ministry.

79. Mismanagement of Cash Bails

79.1 Irregular Surrender of Cash Bails

A review of controls in place for management of cash bails in five(5) police stations have revealed that a total of Kshs.6,288,000.00 was collected but not surrendered as follows: -

Police Division	Cash Bails (Kshs.)
Mombasa	159,000.00
Kilimani	1,266,000.00
Kasarani	3,863,000.00
Total	**6,288,000.00**

Further, there were no miscellaneous receipts to show that the cash had been surrendered to Police Headquarters as required under Section 51 (i) (c) of the Kenya Police Standing Orders (2002). The cash was also not availed for cash survey. In addition, cash totaling Kshs. 205,000.00 and Kshs.1,437,000.00, in respect of un-refunded and un-forfeited cash bails was not surrendered and was being held by Base Commander in Siaya and Officer Commanding Police Station (OCS) at Pangani contrary to Sections 51(1) (c) and 49(9) Kenya Police Standing Orders 2002.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there was a delay of surrender of cash bail for more than 30 days. However, I wish to state that the issue of cash bail is being reviewed from the current manual system to electronic cash management system which is currently on pilot stage and will address the delays of surrender of the cash bails.The cash bails for the mentioned division were accounted as tabulated below;

Mombasa Kshs. 1,159,000.00

No.	Item description Accountability /mode	Remarks	Amount(Kshs)
1	Cash surrendered to Nairobi County Command cashier	Banker's cheque surrendered to Police Headquarters as per FO. 17 and MR attached	490,000.00
2	Bankers cheque by OCPD URBAN	Bankers cheque by OCPD URBAN	532,000.00
3	Cash surrendered to Nairobi County Command cashier	Bankers cheque by OCPD LIKONI	49,000.00
4	Cash bail refunded to bailees.	Original cash bail receipts annexed as Photostat copies for those refunded back to the bailees at the station	88,000.00
	Total collection queried	**Totals**	**1,159,000.00**

Kasarani Division – Kshs. 3,863,000.00

No.	Item description Accountability /mode	Remarks	Amount(Kshs)
1	Cash surrendered to Nairobi County Command cashier	Cash surrendered to Police Headquarters as per FO. 17 and MR attached	1,424,000.00
2	Cash bail refunded to bailees.	Original cash bail receipts annexed as Photostat copies for those refunded back to the bailees at the station	2,439,000.00
	Total collection queried	**Totals**	**3,863,000.00**

Kilimani Division – Kshs 1,266,000.00

No.	Item description Accountability /mode	Remarks	Amount(Kshs)
1	Cash surrendered to Nairobi County Command cashier	Cash surrendered to Police Headquarters as per FO. 17 and MR attached	**798,000.00**
2	Cash bail refunded to bailees.	Original cash bail receipts annexed as Photostat copies for those refunded back to the bailees at the station	**468,000.00**
	Total collection queried	**Totals**	**1,266,000.00**

Traffic Base Commander Siaya Police Station Kshs. 205,000

No.	Item description Accountability /mode	Remarks	Amount(Kshs)
1	Cash surrendered to Nairobi County Command cashier	Banker's cheque surrendered to Police Headquarters as per FO. 17 and MR attached	**140, 000.00**
2	Cash bail refunded to bailees.	Original cash bail receipts annexed as Photostat copies for those refunded back to the bailees at the station	**65, 000.00**
	Total collection queried	**Totals**	**205,000.00**

Pangani Police Division – Kshs. 1,437,000.00

No.	Item description Accountability /mode	Remarks	Amount(Kshs)
1	Cash surrendered to Nairobi	Banker's cheque surrendered to Police Headquarters as per FO. 17 and MR attached	**1,169,000.00**
2	Cash bail refunded to bailees.	Original cash bail receipts annexed as Photostat copies for those refunded back to the bailees at the station	**268,000.00**
	Total collection queried	**Totals**	**1,437,000.00**

Committee Observations and Findings

The explanation by the accounting oficer was satisfactory. The matter was therefore resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that the resources of the respective entity for which he or she is the accounting officer are used in a way that is lawful, authorized, effective, efficient, economical and transparent as provided under section 68(1)(b) of Public Finance Management Act, 2012

79.2 Lost Cash Bail Books

In addition, records maintained at Kenya Police Headquarters, Nairobi indicate that ten (10) Cash Bail Books Serial Numbers 1018501 to 1019000, were issued to the Officer Commanding Police Division (OCPD) Mombasa. However, these books were not availed during an audit verification exercise carried out on 24 August 2016 and therefore, their existence and usage could not be ascertained.

Submission by Accounting Officer

The accounting officer submitted that it was true that the ten (10) Cash Bail Books Serial Numbers 1018501 to 1019000 wereissued and received by the Regional CommanderMombasa but not by the Officer Commanding Police Divisiontherefore the books are available for verification at Regional Commander Mombasa.

Committee Observations and Findings

(i) **The accounting officer submitted that it was true that the ten (10) Cash Bail Books Serial Numbers 1018501 to 1019000 were issued and received by the Regional Commander Mombasa but not by the Officer Commanding Police Division therefore the books are available for verification at Regional Commander Mombasa.**
(ii) **The explanation by the accounting oficer was satisfactory.**

80. Loss of Kshs.5, 107,000.00

Records maintained at the Directorate of Immigration and Registration of Persons show that Kshs. 44,595,736.00 was paid to a firm for supply, installation, testing and commissioning of IP-CCTV at Nyayo House, Malaba and Lwakhakha Border Points (TENDER NO.D112/DWO/STR/01). However, a physical verification conducted at Malaba and Lwakhakha border points revealed that some equipment valued at Kshs.5,107,000.00 were neither delivered nor installed.

Submission by Accounting Officer

The Accounting Officer submitted that some cameras and network video recording system were transferred to Nyayo House Nairobi which were initially to be installed at Malaba and Lwakhakha Border Points. This was in compliance with site instructions issued by the Project Electrical Engineer, from the Ministry of Land, Housing and Urban Development, and Directorate of Public Works. This was occasioned by the move of the Immigration Department from old to new buildings in Lwakhakha and Busia. The original BQs was to install 104 Cameras in Nyayo house, 40 cameras in Malaba and 30 cameras in Lwakakha totaling 174 but the actual number of cameras installed, was 138 cameras in Nyayo 12 cameras in Malaba 24 cameras in Lwakhakha 174 in total.The installation was completed and certificate of completion and hand over issued.

Committee Observations and Findings

The installation was completed and certificate of completion and hand over issued. The explanation by the accounting oficer was satisfactory

81. Embu County

81.1 Unsupported Expenditure

Expenditure totaling Kshs.974,470.00 in respect of Deputy County Commissioner, Embu East (Kshs.235,000.00) and Officer Commanding Police Division, Embu North (Kshs.739,470.00) were not supported with fuel registers and work tickets.

In addition, expenditure totalling Kshs.5,921,997.00 incurred by the Deputy County Commissioner Embu East on security operations was not supported with relevant documents and details.

Submission by Accounting Office

The Accounting Officer submitted that it was true expenditure totaling Kshs.974,470.00 in respect of Deputy County Commissioner, Embu East (Kshs.235,000.00) andOfficer Commanding Police Division, Embu North (Kshs.739,470.00) were not supported with fuel registers and work tickets. However, fuel registers and work tickets are now available for verification.

In addition, it was true expenditure totaling Kshs.5,921,997.00 incurred by the Deputy County Commissioner Embu East on security operations was not supportedwith relevant documents and details. However, the documentations are now available for verification.

Committee Observations and Findings

Expenditure totaling Kshs.974,470.00 in respect of Deputy County Commissioner, Embu East (Kshs.235,000.00) and Officer Commanding Police Division, Embu North (Kshs.739,470.00) were not supported with fuel registers and work tickets.

Committee Recommendations

The Committee directs that the Office of the Auditor General to verify documents tabled by the State Department and report back in the subsequent audit review period.

81.2 Irregular Procurement of Goods

Records made available for audit show that Kshs. 289,000.00 was paid by Deputy County Commissioner, Mbeere South to a supplier who was not prequalified contrary to Section 57 of the Public Procurement and Asset Disposal Act, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true Deputy County Commissioner, Mbeere South Sub-County procured goods of Kshs.289,000.00 using the pre-qualified list of the financial year 2014/2015 because the 2015/2016 pre-qualified list became operational on 27th October, 2015.

Committee Observations and Findings

Deputy County Commissioner, Mbeere South Sub-County, procured goods worth Kshs. 289,000.00 using the pre-qualified list of the financial year 2014/2015 because the 2015/2016 pre-qualified list became operational on 27th October, 2015.

Committee Recommendations

The explanation by the accounting oficer was satisfactory . However, the Committee directs that the Office of the Auditor General to verify documents tabled by the State Department and report back in the subsequent audit review period.

81.3 Imprest Management

Examination of records show that Officer Commanding Police Division (OCPD), Embu East District spent Kshs.304,000.00 on domestic travel and accommodation without imprest warrants recorded in imprest register contrary to Section 91(2) of the Public Finance Management Regulations, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Officer Commanding Police Division (OCPD), Embu East District spent Kshs. 304,000.00 on domestic travel and accommodation without imprest warrants in the register. Although the imprest was not recorded in the register it was subsequently surrendered.

Committee Observations and Findings

The Officer Commanding Police Division (OCPD), Embu East District spent Kshs. 304,000.00 on domestic travel and accommodation without imprest warrants in the register. Although the imprest was not recorded in the register it was subsequently surrendered.

Committee Recommendations

The explanation by the accounting oficer was satisfactory . However, the Committee directs that the Office of the Auditor General to verify documents tabled by the State Department and report back in the subsequent audit review period.

82. Provision of Comprehensive Group Life Insurance Cover, Contract No. NPS/002/2014/2015

In the previous year's report, unsatisfactory matters were reported relating to irregular payment of Kshs.3,494,419,400.00 arising from unexplained irregular award of an annual contract for Provision of Comprehensive Group Life Insurance Cover, Contract No. NPS/002/2014/2015 at Kshs.1,747,209,700.00 instead of Kshs.629,019,316.00. The resultant annual difference of Kshs. 1,118,190,384.00 translates to a loss of Kshs. 2,236,380,768.00 for the two consecutive years. In addition, other provisions of the contract which include guarantee, Letter of Acceptance, Notification of award, Performance Bond, nature and scope of the comprehensive Group Life Insurance Cover did not comply with the laws.

The State Department of Interior did not avail Payment Voucher Number 391 for Kshs.147,209,700.00 together with an assessment report on the performance of the Insurance.

In view of the foregoing, it was not possible to confirm that the payment of Kshs.3,494,419,400.00 was lawful and effective as required under Article 229 (6) of the Constitution.

Submission by Accounting Officer

The Accounting Officer submitted that as previously stated in their 2014/2015 responses the Ministry was awarded tender Number NPS/002/2014-2015 for the Provision of comprehensive group life insurance cover for National Police and Prisons Services at Kshs.1, 747,209,700.00.

The Procuring Entity complied with the Public Procurement and Disposal Act 2005 in the award of the above tender. The tender was awarded to the lowest evaluated bidder in accordance with Section 6.6(2) "which states that the evaluation and comparison shall be done using the procedures and criteria set out in the tender documents and no other criteria shall be used.

The Procuring Entity stipulated the requirements of the tender which included, a duly completed, signed and stamped form of tender among others. Section 64(1) of the Act stipulates that a tender is responsive if it conforms to all the mandatory requirements in the tender documents.

The lowest priced bidder, British American Insurance Company (K) Ltd. was found not to be responsive in accordance with Section 64(1) of the Act as the form of tender was not duly completed as required, as the capacity in the organization had not been indicated as well as the names.

In public procurement practice, this is always a "fatal omission" hence the bid was disqualified as non-responsive as without a duly completed signed and stamped form of tender there was no valid bid.

It was important to note that although Section 64(2) (b) of the Act allowed for corrections of errors or oversight, that do not affect the substance of the tender, failure to dully complete, sign and stamp form of tender is not a minor deviation, as this was stipulated to be mandatory in accordance with Section 64(1) stated above.

The Procuring Entity did not waive the mandatory 2% tender security as the successful bidder submitted tender security of Kshs.32,940,252.00 from Bank of Africa and another one of Kshs. 3,000,000.00 from Chase Bank, both were properly signed. It is important to note that the purpose of the tender security was to ensure the successful bidder signed the contract, the attached tender security protected the ministry to ensure this happened**.**

The accounting officer submitted that it was true that the bidder erroneously issued acceptance letter dated 7th June 2014 instead of 7th July 2014. The bidder however acknowledged there was a mistake in their letter of acceptance.

It was true that contract number NPS/002/2014-2015 for Provision of Comprehensive Group Life Insurance Cover for National Police and Kenya Prisons Service Staff signed on 1 July 2015 between the Accounting Officer and the firm for a period of two (2) years the Contract had to be effective from 1st July, 2014, since the NHIF Insurance Cover had been terminated, to avoid a lacuna for the National Police Service and the Kenya Prisons Service. The Procuring Entity had to sign the contract promptly as this was an urgent need for services in circumstances where there was imminent or actual threat to public health, such that engaging in tendering proceedings or other procurement methods would not be practicable. The client would be left exposed if this contract was not signed promptly. This was supported by Section 74 of the Act.

It was true the performance bond Ref. No. 001LBG010414 dated 17 July 2014 amounting to Kshs. 174,720,970.00 was issued to the office of the Inspector General of Police belatedly due to the fact that the service required the cover to commence on 1st July 2014 in view of termination of NHIF cover. Based on circumstances, the insurance cover was going to last for 12 months and the only lapse was few days.

It was true that the Group Life Insurance Cover scope included but not limited to the following:

a) If an employee dies as a result of accidental and / or occupational causes, the beneficiaries are entitled to a lump sum payment of 8 years basic salary.
b) If an employee suffers permanent and total disability from accidental and / or occupational causes, the employee shall be entitled to a lump sum payment of 8 years basic salary.
c) Cover for funeral expense is Kshs. 150,000.00 per employee to be settled within 24 hours on receipt of burial permit.
d) The policy has no exclusion whatsoever in respect of any cause of death.

However, examination of minutes of a meeting held on 30 June 2015 in which the renewal of the group life insurance cover was discussed, members were in agreement that renewal and payment must be based on satisfaction of the customer (National Police and Kenya Prison Services).

Renewal was to be based on satisfaction of the NPS and Kenya Prisons Service. In meetings held prior to the renewal National Police Service and Kenya Prisons Services officers expressed satisfaction with the performance of the service provider. Attached are letters from the users expressing their satisfaction?

It was true that the insurance company was paid Kshs.3, 494,419,400.00 in two (2) consecutive years as per the breakdown below;

Payment Vouchers

Record of Payments show that the purported winner has been paid Kshs.3,494,419,400.00 in two (2) consecutive years;

Date	PV No.	Amount K()(Kshs.)	
19.09.2014	382	1,600,000,000.00	
23.03.2015	391	147,209,700.00	

23.10.2015	528	1,747,209,700.00	
Total		**3,494,419,400.00**	

The Payment Voucher Number 391 for Kshs.147,209,700.00 so far paid is available for review.

SUBMISSIONS FROM OTHER WITNESSES ON THE SAME MATTER

(a) Submission by Britam Insurance

Mr. Ambrose Dabani, the Group CEO and Principal Officer accompanied by Ms. Faith Masika, Senior Sales Executive; and Mr. Jesse Gharragu, Head of Legal appeared before the Committee on Tuesday, 5th March 2019 to adduce evidence on the audit query. The minutes of the Committee's sittings and the submissions tabled by the CEO are annexed to this report.The Chief Executive Officer Submitted as follow:

The company participated in the Tender: NPS/002/2014-2015 for the Provision of comprehensive Group Life Insurance Cover National Police Service. Britam purchased the tender document and successfully submitted its bid strictly based on the tender document on 29th of May 2014. A public tender opening took place on the same day and results recorded. Britam was the lowest financial bidder.

Lowest bidder disqualified

It was revealed that Britam who was the lowest bidder was disqualified because the "form of tender was not duly completed and that the format of the form of tender had been violated by not stating the capacity of the signatory".

He submitted that it was Britam firm position that the form of tender, which binds the Company, was signed by the Sales Manager who at the time held full authority to execute the form. In any event the capacity "Sales Manager Group Life & Pension" was actually indicated in the form of tender. More importantly from the tender document, there was no mandatory requirement for the Chief Executive Officer to Sign.

He also referred to Section 64(2) (b) of the Public Procurement & Disposal Act, 2005, which provides that such an anomaly as described above was capable of being corrected. However, it was the procuring entity's obligation to inform the bidder of such anomaly. Britam was never contacted by the procuring entity or given any opportunity to correct the error.

He reported that it is Britam's policy not to challenge the outcome of tender evaluation processes. It takes failed bids as a positive opportunity to improve our bid in future.

The Bid amount of Kshs. 629,019,316

He submitted that after careful consideration of the risk and benefits that they were offering, Britam offered a premium of Kshs. 629,019,316. They were confident that the premium would allow them to sufficiently meet their obligations during the cover period. Although arriving at a premium for such a business is not an absolute science, most underwriters will arrive at the premium based on their view of the risk. If the risk appears to be high, then the premiums will be high as well.

Committee Observations and Findings

Members took note of the submission made by the Group CEO. The Committee further requested the CEO to submit the letter indicating the rejection of Britam's bid and the tender documents.

(b) Submissionsby Pioneer Insurance Company Limited

Mr. Moses N. Kimani the Group CEO accompanied Mr. Cyprian Ombogo Onsando, General Manager and Chief Finance Officer; Mr. Timothy Mutua, Head of Operation Department; and Mr. Benson Milimo, Advocates appeared before the Committee on 5th March, 2019 to adduce evidence on the audit query. The minutes of the Committee's sittings and the submissions tabled by the CEO are annexed to this report.The Chief Executive Officer Submitted as follow:

Background

Pioneer Assurance Company Limited is a registered insurance Company within the Republic of Kenya. Pioneer offers life insurance covers within the Republic of Kenya. Pioneer has its Head Office situate at Pioneer House, 7th Floor, Moi Avenue, with its eighteen (18) branches located across the Republic of Kenya.

He reported that in or about the month of April, 2014, an open tender was floated by way of advertisement in the Newspapers for Provision of Comprehensive Group Life Insurance Cover for the National Police Service and Kenya Prisons Service. Pioneer responded to the Advertisement by submitting its tender documents on **29th May, 2014.** Vide a notification of award dated **30th June, 2014** and received at Pioneer on **2nd July, 2014**, Pioneer was awarded the subject tender. A contract agreement in respect of this tender was executed by both parties on **12th August, 2014** at Harambee House, 6th Floor, in a ceremony presided over by the then Cabinet Secretary for Ministry of Interior and Co-ordination of National Government, Mr. Joseph Ole Lenku. Upon execution of the contract, Pioneer provided the services as expected for the entire contract period.

Queries raised by Auditor

As regards Section 243.1 of the Auditor General's subject report (Alleged Irregular Award of Contract).

a. **Disqualification/qualification at the evaluation stage**.
Pioneer, in compliance with the tender requirements, did among others, submit a bid price for **Kenya Shillings One Billion, Seven Hundred and Forty-Seven Million, Two Hundred and Nine Thousand and Seven Hundred (Kshs. 1, 747, 209, 700.00)**. Pioneer was not privy to the undertakings at the tender evaluation stage as it did not sit as a member thereat. Pioneer is therefore incapacitated to comment on the happenings at the evaluation stage.

b. Tender Security.
A tender security to a tune of 2% of the bid amount was to be guaranteed. Pioneer, in compliance with this tender requirement, did submit, the following documents;

i. Bid bond summary
This was a table of the attached guaranteed which appears as below;

BANK	BID AMOUNT	EXPIRY
Bank of Africa	32, 940, 252	17th November, 2014
Chase Bank	3, 000, 000	17th November, 2014
Total Amount	**35, 940, 252**	

Pioneer did not retain a copy of this document and vide a letter dated **4th March, 2019**, it requested that the National Police Service (NPS) provide it with a copy of the same from our submitted tender documents. The said copy was tabled.

ii. **An original bank guarantee issued by Bank of Africa Kenya Limited.**
This was a bank guarantee for a sum of **Kenya Shillings Thirty-Two Million, Nine Hundred and Forty Thousand, and Two Hundred and Fifty-Two Only (Kshs. 32, 940, 252.00)** dated **26th May, 2014**. A copy was tabled**.**

iii. **An original bank guarantee issued by Chase Bank (Kenya) Limited**
This was a bank guarantee for a sum of **Kenya shillings Three Million (Kshs. 3, 000, 000.00)** dated **28th May, 2014.** Due to constraint of time, did not retain a copy of the same as it was secured towards last minutes of submission of our tender documents. It sought that NPS provide it with a copy of the same (same tabled).

Alleged waiver of Provision of Bank guarantee in favour of Pioneer.

It was not true that there was a waiver of the tender security in favour of Pioneer. The Auditor has referred to only one bank guarantee dated **26th May, 2014** issued by Bank of Africa Kenya Limited. As stated above, there was a second bank guarantee by Chase Bank (Kenya) Limited which was also submitted as part its bid documents. The cumulative effect of the two (2) bid bonds/bank guarantees amounts sufficiently covered the required 2% of the bid amount. The issue of waiver therefore does not arise as it was not afforded to Pioneer at all.

c. Unsigned Bank Guarantee.

It was not true that an unsigned bank guarantee was issued by a bank calculated to defeat audit trail or at all. The tender documents are in possession of the NPS and which documents can be accessed for verification.

For avoidance of doubt, Pioneer reiterate that it submitted on 29th May, 2014 a security in the nature of two (2) bank guarantees, duly signed by the respective banks signatories in compliance with the tender requirements. There was therefore no omission at all. Neither was there an attempt to defeat an audit trail or at all.

1) As regards Section 243.2 of the Auditor General's Report
(Alleged irregular Letter of Acceptance)

The Notification of Award was dated **30th June, 2014** and received at Pioneer on **2nd July, 2014**. The Acceptance letter was written by Pioneer on 7th July, 2014 and received at NPS on **8th July, 2014**. However, due to a clerical error on the part of Pioneer, the Letter of acceptance, although written on **7th July, 2014**, was dated **7th June, 2014**. The reference to the month of "June" in the Letter of Acceptance instead of "July" was therefore an inadvertent human mistake which is regretted. The Letter of Acceptance therefore although incorrectly dated **7th June, 2014** instead of **7th July, 2014**, is valid and genuine. The said acceptance letter is neither irregular nor illegal.

2) As regards Section 243.3 of the Auditor General's report (Notification of Award and Contract document).

The Notification of Award letter was dated **30th June, 2014**. The same was received at Pioneer on **2nd July, 2014**. The letter of Acceptance was written on **7th July, 2014** and received at NPS on **8th July, 2014**.

The Auditor General's report states that the contract was hurriedly signed on ***1st July, 2015***. Pioneer believe the year quoted by the Auditor General, being year **2015** was so quoted in error and take it that the intended year is **2014**. But for avoidance of doubt, no contract was signed on **1st July, 2015** at all.

Riding on the belief that the intended date of contract signing by the Auditor General was **1st July, 2014**, we confirm that the subject contract was not signed on **1st July, 2014**. The subject contract was signed by the parties on **12th August, 2014**. The insertion of the date of **1st July, 2014** as appearing on **the first line of page 3 of the signed contract**, reflected as the date on which the contract was "**made"** is in our view a common mistake then in the mind of the drafters of the contract in quoting the intended **commencement date** of the contract as opposed to the date of signing. For avoidance of doubt, this date of **1st July, 2014**, being the contract commencement date was also quoted at **Clause 2.1 of the Contract**. The Company draws attention to the media reports which not only referred to the intended signing way past the date of **1st July, 2014**, but also the media reporting that correctly published the reporting date of **12th August, 2014** (T**he media print outs was tabled). Also copy of letter dated 12th August, 2014 to the NPS was tabled.**

In the circumstances, it is not therefore true that the subject contract was hurriedly signed. Neither was the contract signing on **12th August, 2014** in breach of the applicable law on signing of tender.

3) As regards Section 243.4 (Performance Bond)

Pioneer issued a Performance Bond dated **17th July, 2014** issued by African Banking Corporation Limited. Pioneer is also aware that a Performance Bond is a requirement in case its bid would be successful. The Notification of Award letter dated **30th June, 2014** was also express that it would be required to execute a performance bond. On the strength of this information, Pioneer proceeded to secure the said Performance bond on **17th July, 2014**. Clause 7 of the Contract therefore only reiterated the Performance Bond requirement which was already in its possession as it knew was a requirement.

There is therefore no inconsistency in provision of the Performance Bond prior to the date of signing of the contract. Pioneer take it that although the Auditor General has in this Section as well quoted **1st July, 2015** as the Contract signing date, the intended date was **1st July, 2014** as there was no contract signed on **1st July, 2015**.

4) As regards Section 243.5 of the Auditor General Report.
(Nature and Scope of the Comprehensive Group Life Insurance Cover).

a) Assessment of the Nature and Scope of the Contract.

At the time of preparation of the tender, Pioneer had read and understood the nature and scope of the services to be rendered. Based on the details provided, a computation was done culmination of which was the bid price amount of Kshs. 1, 747, 209, 700/=. The number of police and prison officers, their monthly basic salaries and lump sum were all taken into consideration while computing. The contract document was express at Clause 5 that there could be no variation on the contract price on renewal for the second year.

b) Free Cover Limit

It was alleged that details of the insureds of the Free Cover Limit was not provided, defined or disclosed. This is not true. The definition of Free Cover Limit was defined at Clause 1.8 of the Subject contract. The criteria of the insureds who would qualify and or fall in this category of Free Cover Limit was well explained under Clause 3.1 of the Contract, based on our reinsurance arrangement, our Free Cover Limit is Kshs twenty million(20,000,000) for our group life policies.

5) As regards Section 243.6 of the Auditor General Report.
(Payment Voucher)

Our reading of this Section convinced us that the sought information was from the relevant Ministry and not Pioneer.

Plenary

1. The Committee observed that the contract was signed on 1st July, 2014 and not on 12th August, 2014 as alleged by the CEO. He responded that that was an error on part of the drafters, the commencement of the contract was 1st of July 2014 to June 2015. The actual signing was on 12th August, 2014
2. When asked whether they entered into negotiation with the procuring entity in order to lower the prices. He submitted that such negotiation are initiated by the procuring entity and in any cause they felt that the premium quoted as too low and need to be increased
3. When asked of the directors of the company he gave the following names:
    (a) Bonaventure Omuse
    (b) John M. Okondo
    (c) Mtalaki Mwashimba
    (d) Michael Mure
    (e) Shiraz Deraj
    (f) Moses M. Kimani- Principal Officer
    (g) Amai Olubayi

(c) Submissions by Ambassador Dr. Monica Juma

Ambassador Dr. Monica Juma, the Cabinet Secretary for Foreign Affairs and the erstwhile accounting officer for State Department for Interior, vote 1021 accompanied by Ambassador E. M. Barine, Liaison Person; Mr. Paul K. Muthangya, Assistant Secretary MFA; and Ms. Edith Fortunate, AD. MFA appeared before the Committee on 19th March, 2019 to adduce evidence on the audit query. The minutes of the Committee's sittings and the submissions tabled are annexed to this report.The Chief Executive Officer Submitted as follow:

Ms. Monicah Juma was in agreement with the Auditor's observation and wished to respond as follows:

1. The contract for the Provision of Comprehensive Group Life Insurance Cover; contract No NPS/002/2014/2015 was negotiated, concluded and signed on 12th August 2014, for a period of two years (Article 2), covering the period starting 1st July 2014- to 30 June 2016.

The contract was executed by the then Principal Secretary of the State Department of Interior Mr. Mutea Iringo, witnessed by the then Inspector General David Kimaiyo, with Managing Director of Pioneer Assurance Company Mr. Moses Kimani. This event was widely reported across the media fraternity.

2. When she became aware of the PAC report to parliament – firstly through the media coverage and upon reading it, she found that it fingered her as the Principal Secretary under whose tenure the contract was negotiated and signed. Infact the report recommends, and she quotes, ***The Accounting officer during the year under review, Amb. (Dr.) Monica Juma, should be reprimanded for introducing a new criterion during evaluation and comparison of tenders and proceeding to cancel the tender for lowest bid contrary section 66(2) of the Public Procurement and Disposal Act, 2005 and section 74 (4) (a) of the Public Finance Management Act, 2012.***

3. She mentioned that as sit was shown by the copy of the contract appended to this submission, she was not the Principal Secretary under whose tenure this contract was negotiated, concluded and executed. In view of this, she wrote to Parliament on 25th November 2018, informing that she had not been appointed as the Principal Secretary to the State Department of Interior at the time that the contract was executed, and requested that Parliament expunge my name from the report.

4. This is a request that she still placed before the Committee because she understood the weight of parliamentary reports and their recommendations. It was therefore her prayer that the committee would grant her request in view of the facts at hand.

5. Similarly, the matters raised on the **procurement process including the guarantee, Letter of Acceptance, Notification of award, performance Bond, nature and scope of the comprehensive Group Life Insurance Cover** were all executed before the signing of the contract.

6. The PAC report also raises the matter of the Voucher no 391 and indicates that the **State Department of Interior did not avail payment Voucher number 391 for Kshs. 147,209,700.00 together with an assessment report on the performance of the Insurance.** She submitted that the details of the processing of this voucher were provided in the report, submitted by the State Department of Interior to the Committee in May 2018, which indicated that an amount of Kshs. 147,209,700.00 was processed via payment voucher 391 in March 2015.

7. In the light of the foregoing, it was her submission that the conclusion arrived at by the Committee that I, Amb. Monica Juma ***"should be reprimanded for introducing a new criterion during evaluation and comparison of tenders and proceeding to cancel the tender for lowest bid…."*** in relation to conclusion and execution of the "Provision of Comprehensive Group Life Insurance Cover, No. NPS/002/2014/15" contract is an erroneous apportionment of blame and/or responsibility.

8. As submitted last November, she pleaded with the PAC to, in the light of the clarifications and facts at hand, review its decision and expunge her name from the report, accordingly.

(d) Submissions by Ambassador by Mr. Mutea Iringo

Mr. Mutea Iringo, the erstwhile accounting officer for State Department for Interior, vote 1021 accompanied by Mr. Kevin Kioko, Personal Assistant appeared before the Committee on 19th March, 2019 to adduce evidence on the audit query. The minutes of the Committee's sittings and the submissions tabled are annexed to this report.Mr. Mutea Iringo Submitted as follow:

Auditor General's findings

1) That the provision of comprehensive group life insurance cover for NPS and Prisons revealed that the lowest bidder submitted a bid totaling Kshs. 629,019,316.00 while the contract was awarded to another bidder at Kshs. 1,747,209,700.00
2) That, the basis of disqualifying the lowest bidder was
    a) Form of tender was not duly completed
    b) Form of the tender did not state the capacity of the signatory

The bid document required that the person signing the form of tender indicates his or her capacity in the organization.

Mr. Mutea Iringo submitted that the procuring entity complied with Public Procurement and Disposal Act 2005 in the award of the tender. The tender was awarded to the lowest bidder in accordance with section 66(2) which states that" ***the evaluation and comparison shall be done using the procedures and criteria set out in the tender documents and no other criteria shall be used".***

The procuring entity stipulated the tender requirements from the onset of the process whereby ***"a duly completed, signed and stamped form of tender "was a mandatory requirement*****contrary to Auditor General's report (see attached copy of evaluation minutes)**

The lowest bidder was unresponsive in accordance with section 64(1) which states; ***"A tender is responsive if it conforms to all the mandatory requirements in the tender documents".*** The bidder was unresponsive because:

(a) The form of tender was not duly completed as required
(b) The capacity/ position of the signatory in the organization was not indicated
(c) The name of authorized signatory was also not indicated

Although section 64(2) (b) of the Act ***allowed for corrections of errors or oversight, that do not affect the substance of the tender,*** failure to duly complete, sign and stamp form of tender is not a minor deviation as this was stipulated to be mandatory in accordance with Section 64(1) stated above. Failure to meet the requirements of Section 64(1) is a critical and serious omission hence the bidder was disqualified as non-responsive and therefore the bid was invalid. Although this bid had the lowest bid, it was not the lowest evaluated bid in accordance with section 64(1) of the Act, to be awarded the contract. Award is usually given ***to the lowest technically evaluated bidder and not just the lowest bidder*** and in this case bidders had to meet all the mandatory requirements to qualify for technical evaluation. The lowest bidder did not meet the criteria.

It should be appreciated that if the regulations were bent for the lowest bidder, all the other six would follow suit for they were also disqualified due to various omissions and would be against Public Procurement and Disposal Act of 2005.

243.3 Notification of Award and Contract Document

Mr. Mutea Iringo submitted that the notification of Award was issued to the firm on **30th June, 2014** and contract signed **1st July 2014 between** the Accounting Officer and the firm for a period of 2years. He noted that he was not aware of the contract said to have been signed on 1st July 2015 as indicated.

However, the signing of the contract on 1st July 2014 without giving the window of 14 days was necessitated by the urgent need to ensure seamless medical services to security services.

It was also important to note that a lacuna in provision of the service would have demoralized the officers at a time when the country was facing serious threats to national security. So this was treated as an urgent need as per section 3(1) of the Act where an ***Urgent need is defined as the' need for goods, works or services in circumstances where there is an imminent or actual threat to a public health, welfare, safety, or of damage of property, such that engaging in tendering proceedings or other procurement methods would not be practicable.'***

Waiver of 2%Tender Security

The procuring entity did not waive the mandatory 2% tender security as the successful bidder submitted tender security of Ksh: 32,940,252.00 from Bank of Africa and another one of Ksh:3,000,000.00 from Chase bank, both were properly signed contrary to what the Auditor General had indicated.

In his final submission, Mr. Mutea Iringo noted that it was important to note that, the lowest bidder did not raise objection after notification of award was issued to the successful lowest evaluated bidder. If the lowest bidder did, the whole process would be reviewed afresh based on the facts presented. There was no complainant up to today, more than 5 years later. It was also worth noting that eight insurance firms participated i.e. CIC Life (1.74b), Jubilee (5b), APA (1.6b), ICEA (1.8b) Pioneer (1.74b) and British American Insurance (629m). It was his humble submission to the Chair and Members that the processing of the tender was done in conformity with the Public Procurement and Disposal Act 2005.

Committee Observations and Findings

(i) **The Committee had made its observations and recommendation on this particular audit query in its report for the Financial Year 2014/2015. However, the audit query has recurred in the Financial Year 2015/2016.**
(ii) **The tender was awarded to the lowest evaluated bidder in accordance with Section 66(2) of the PPD Act 2015 which states that the evaluation and comparison shall be done using the procedures and criteria set out in the tender documents and no other criteria shall be use.**
(iii) **The lowest bidder (not lowest evaluated bidder) Britam Insurance Co. Kenya Ltd was considered unresponsive in accordance with Section 64(1) purportedly because the form of tender was not duly completed as required, the capacity/ position of the signatory in the organization was not indicated, and the name of authorized signatory was also not indicated.**
(iv) **The Committee observed that the matter under paragraph 243.3 under FY2014/2015 was considered by the House and that the Accounting Officer for the State Department in the financial year under review (2014/2015) was Mr. Mutea Iringo and NOT Ambassador Dr. Monica Juma.**

Committee Recommendations

From the submissions by various witnesses and the evidence placed before the Committee, it has not been possible for the Committee to make a determination on whether the process, in totality, was irregular or not. The Committee, therefore, directs the relevant investigative agencies to initiate thorough and conclusive investigations into the matter and make appropriate recommendations within three months upon adoption of this report.

83. Accountability of Visa Stickers and Passports

i. Visa Stickers

The State Department of Immigration issued Visa Stickers worth Kshs.2,728,302,000 to the Ministry of Foreign Affairs and International Trade during the 2013/2014 and 2014/2015 financial years. It was observed that 39,900 blank passports valued at Kshs.202,500,000 were issued to five (5) consulate missions and 13,872 printed passports valued at Kshs.65,988,000 to foreign missions/embassies. In these circumstances, total revenue collected excluding certificate of good conduct, Identity cards and others of Ksh.2,996,790,000 differs with the Kshs.1,524,300,362 reflected in the financial statements for 2013/2014 and 2014/2015. The resultant loss of Kshs.1,472,489,638, has not been accounted for to date.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Department of Immigration issued visa stickers and passports to the Ministry of foreign affairs as show below during the financial years 2013/2014 and 2014/2015.

	Kshs.
Visa stickers	2,728,302,000.00
Bank passports	202,500,000.00
Printed passports	65,988,000.00
Total	2,996,790,000.00

The accounting officer clarified that all the receipts received for services rendered by the missions abroad and paid for (including issuance of visas and passports amongst others) are accounted for at the Ministry of Foreign Affairs. This is the reason why the estimate books clearly indicate that the Ministry of Foreign Affairs has a provision for the Appropriation in Aid (A.I.A.). In view of the above the Kshs. 2,996,790,000. 00 ought to have been reported and accounted for as AIE by Ministry of Foreign Affairs in its Statement of Assets and Liabilities amongst other receipts for services rendered at the mission. The introduction of e-visa system whereby payments are made direct to thee-visa account will make it easy for the Department of Immigration Services to account for the revenue realized in missions abroad.

Committee Observations and Findings

(i) **The receipts received for services rendered by the missions abroad and paid for (including issuance of visas and passports amongst others) are accounted for at the Ministry of Foreign Affairs; and**
(ii) **In view of the above the Kshs. 2,996,790,000. 00 ought to have been reported and accounted for as AIE by Ministry of Foreign Affairs in its Statement of Assets and Liabilities amongst other receipts for services rendered at the mission.**

Committee Recommendations

(i) **The explanation by the Accounting Officer was satisfactory.**
(ii) **The Committee directs the Auditor General to make a follow up on this matter with the Ministry of Foreign Affairs and report back to the Committee three months after adoption of this report.**

ii. Passports

Blank passports valued at Kshs.133,052,500 were issued by State Department of Immigration to Kenya missions/embassies in Washington DC, London, Berlin and Pretoria. However, the passports were not recorded in the Counter Receipt Book Registers as required under Regulation 118(2) of Public Finance Management (National Government) Regulations 2015. The existence of these passports could not be confirmed as a result of failure by the missions to produce them for physical audit verification. In view of the foregoing, together with explanation submitted by State Department of Immigration that visa stickers and passports are not included in Public Finance Regulations as accountable documents, it is not possible to confirm that their use is lawful and effective as required in Article 229 (6) of the Constitution.

Submission by Accounting Officer

The Accounting Officer submitted that there are five missions where the passport processing system has been installed, namely: Washington D.C; London; Dubai; Pretoria; and BerlinHe noted that blank passport booklets are issued from the Department of Immigration stores to the Ministry of Foreign Affairs upon requisition. Application for passports received by the mission and issued to the applicants. The Ministry of Interior and Co-ordination of NationalGovernment has written to the Ministry of Foreign Affairs to facilitate the availability of the documents requested by the Auditor General to facilitate physical audit verification. The department of immigration has necessary records to show the issuance of the said documents to the Ministry of Foreign affairs and missions.

Committee Observations and Findings

(i) **Blank passports valued at Kshs. 133,052,500 were issued by State Department of Immigration to Kenya missions/embassies in Washington DC, London, Berlin and Pretoria. However, the passports were not recorded in the Counter Receipt Book Registers as required under Regulation 118(2) of PFM (National Government) Regulations 2015; and**
(ii) **The State Department did not, at the time of audit, produce documentary evidence of records of blank passports issued to the five missions for physical audit verification contrary to the provisions of Section 9(1e) of the Public Audit Act, 2015 which gives the Auditor-General powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities.**

Committee Recommendations

The Accounting Officer responsible for Immigration should, within three months upon adoption of this report, liaise with the Accounting Officer for the Ministry of Foreign Affairs and submit a joint report to the National Assembly on the records of blank passports issued to the five missions for further action.

84. Cash Books and Bank Reconciliations

84.1 Unaccounted for Expenditure –

Examination of bank reconciliation statements show that Kshs.9,322,850,253 has been paid from the bank without corresponding entry in cashbooks as follows: -

Bank Account	**Payments (Kshs.)**
Recurrent	2,405,876,123
Development	6,909,090,570
Deposits	7,883,560
Total	**9,322,850,253**

Further, the State Department has not reconciled or explained the nature of these payments which have existed in records for a long period of time due to lack of expenditure documents. In this regard, it was not possible to confirm that these payments were authorized, lawful and that the value for money was obtained in Kshs.9,322,850,253 as required under Section 68(1) (a) and (b) of the Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Bank Reconciliation Statements reflected payments in the bank statement not in the cash book which were later reconciled and adjusted and includes the following:

a) Recurrent Kshs. 2,405,876,122.50

Analysis of the payments are as follows**:**

(i)	Salaries and Allowances	Kshs 578,871,578.15
(ii)	General Merchants	Kshs 394,134,670.80
(iii)	Salary Deductions	Kshs 792,313,728.60
(iv)	A.I.Es	Kshs 640,556,144.95

b) **Development Kshs. 6,909,090,570.25**

Analysis of payments appearing in the bank statement and not in cash book is indicated below:

(i)	Payments Advices (PAs)	Kshs 6,546,466,049.10
(ii)	A.I.Es	Kshs 170,929,581.00
(iii)	General Suppliers/Contractors	Kshs 191,694,940.15
	Total	**Kshs 6,909,090,570.25**

(a) Deposit Kshs.7883,559.90

Analysis of the Deposit payments in the bank statement not in the cash book is shown below;

(i)	Retention refund	Kshs 4,074,859.90
(ii)	Compensation	Kshs 3,808,700.00

Payment vouchers in support of payment in bank statement not in the cash book are available for verification.

These payments were properly approved and processed in the manual and IFMIS system but were inadvertently not posted in the Cash Book.

Necessary adjustments have been effected in the cash books to correct the anomalies/differences

Committee Observations and Findings

Bank Reconciliation Statements reflected payments in the bank statement not in the cash book which were later reconciled and adjusted

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

84.2 Un-surrendered Cash Balance

Further, examination of the current cashbooks maintained at the State Department show Kshs.1,488,607,745 against unspent cash balance composed of bank balances and cash in hand of Kshs.1,267,163,200 and Kshs.221,444,545 respectively. Although the State Department has availed unsigned bank reconciliation statements dated 31 July 2016 which are not backed by a board of survey report, there is no evidence that Kshs. 221,444,545 was eventually surrendered to the Exchequer as required under Section 45(2) of the Public Financial Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that at the closure of the, financial year 2015/2016 on 30th June 2016 unspent cash balance of Kshs 1,488,607,745.00 which comprised of Bank balance and Cash in hand of Kshs. 1,267,163,200.00 and Kshs 221,444,545.00 respectively had not been surrendered to the National Exchequer Account. However, the amount balances were transferred to the National Exchequer Account on 22nd July 2016 on account No 1000209682 an amount of Kshs 1,705,441.80 and account no 1000209658 an amount of Kshs 780,933,513.60 respectively as confirmed by copies of bank statement from the Central Bank of Kenya for the month of July 2016 attached.

The cash balance related to cheques received for surrender of imprest after closure of business of Central Bank of Kenya. The cheques were subsequently deposited in the bank. The signed board of survey report was availed for verification.

Committee Observations and Findings

As at the closure of the, financial year 2015/2016 on 30th June 2016 unspent cash balance of Kshs 1,488,607,745.00 which comprised of Bank balance and Cash in hand of Kshs. 1,267,163,200.00 and Kshs 221,444,545.00 respectively had not been surrendered to the National Exchequer Account. However, the amount balances were transferred to the National Exchequer Account on 22nd July 2016 on account No 1000209682 an amount of Kshs 1,705,441.80 and account no 1000209658 an amount of Kshs 780,933,513.60 respectively as confirmed by copies of bank statement from the Central Bank of Kenya for the month of July 2016 attached.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

85. Acquisition of Assets

The statement of receipts and payments reflects an amount of Kshs. 16,225,334,256 in respect of expenditure on acquisition of assets. However, the summary of fixed assets register reflects a closing balance of Kshs. 4,344,736,000 as at 30 June, 2016. No explanation has been given for failure to update the fixed assets register as required under Regulation 143 of the Public Finance Management (National Government) Regulations, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the opening balance of total asset register was Kshs. 4,344,736,000.00 which was summary of Fixed Asset as at 30/6/2015. The fixed asset register is being updated to capture Kshs. 16,225,334,256.00 and will be availed for verification once completed.

Committee Observations and Findings

Statement of receipts and payments reflected an amount of Kshs. 16,225,334,256 in respect of expenditure on acquisition of assets. However, the summary of fixed assets register reflected a closing balance of Kshs. 4,344,736,000 as at 30th June, 2016. No explanation was given for failure to update the fixed assets register as required under Regulation 143 of the PFM (National Government) Regulations, 2015.

Committee Recommendations

Within three months upon adoption of this report, the Accounting Officer should furnish the National Assembly with a fully updated fixed asset register for the State Department.

86. Pending Bills

Information and records availed indicate that pending bills totaling Kshs.5,070,255,153 as shown were not settled in the year that they relate to but were instead carried forward.

Financial Year	Amount (Kshs.)
2012/2013	1,720,959,325
2013/2014	2,641,689,050
2014/2015	5,070,255,153
2015/2016	1,800,614,863

The Kshs.5,070,255,153 pending bills for the 2014/2015 differs with the comparative figure of Kshs.4,828,392,000 reflected in the financial statements under Note 26.1 by an unexplained and unreconciled difference of Kshs.241,863,153.

In addition, the Officer Commanding Police Division (OCPD) Embu West had pending bills totaling Kshs.5,417,508 in respect of Food and Ration (Kshs.609,620) and Maintenance of Motor Vehicles (Kshs.4,807,888), as at 30 June 2016. Records show that bills for Maintenance of Motor vehicles had been pending since the financial year 2012/2013. Further, the Police Station had an unsupported outstanding/pending bills amounting to Kshs. 1,035,690 for the months of July 2015 to June 2016. No explanation was availed as to why the amount was not settled and whether, the expenditure was budgeted for.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that pending bills totaling Kshs.5,074,255,153.07 were not settled in the year that they relate to but were instead carried forward to the financial year 2015/2016. This was occasioned by late approval of the 2nd supplementary budget, and IFMIS processing challenges

The pending bills of Kshs. 5,070,255,153.01 as per the supporting schedules and documentation differ with the amount reflected in the financial statement of Kshs. 4,828,392,000.00 resulting to a difference of Kshs. 241,863,153.07. The difference of Kshs. 241,863,153.00 relate to pending bills which were inadvertently omitted from the list of pending bills. All the pending bills including the initially excluded from the list were verified processed and paid during the financial year. He further noted that it was true that the Police Station had an unsupported outstanding/pending bills amounting to Kshs. 1,035,690.00 for the months of July 2015 to June 2016. No explanation was availed as to why the amount was not settled and whether, the expenditure was budgeted for. However, the expenditure was budgeted for and all pending bills were paid during the year.

Committee Observations and Findings

(i) **The pending bills of Kshs. 5,070,255,153.01 as per the supporting schedules and documentation differ with the amount reflected in the financial statement of Kshs. 4,828,392,000.00 resulting to a difference of Kshs. 241,863,153.07; and**
(ii) **The difference of Kshs. 241,863,153.00 relate to pending bills which were inadvertently omitted from the list of pending bills. All the pending bills including the initially excluded from the list were verified processed and paid during the financial year.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

87. District Suspense

The statement of assets reflects accounts receivables balance of Kshs.1,112,170,458 as at 30 June, 2016. The balance includes an amount of Kshs.1,105,768,862 against District Suspense Account which represent Authorities to Incur Expenditure issued to various Counties and Sub-Counties. The District suspense account balance was not however, analysed. Consequently, the validity and accuracy of the balance could not be ascertained.

Submission by Accounting Officer

The accounting officer submitted that it was true that the statement of assets as at 30 June 2016 reflected a District Suspense account balance of Kshs. 1,105,768,861.55 which represented unaccounted for AIE's issued to various districts.

Committee Observations and Findings

The accounting officer submitted that it was true that the statement of assets as at 30 June 2016 reflected a District Suspense account balance of Kshs. 1,105,768,861.55 which represented unaccounted for AIE's issued to various districts.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

REVENUE STATEMENT

Basis for Adverse Opinion

88. Presentation of Financial Statements

The revenue statement presented for audit has no page numbers, does not include key entity's management information, date of approval of the financial statements and a statement of arrears of revenue as prescribed under Section 82(2)(b) of the Public Finance Management Act, 2012, Treasury Circular No. AG.3/088 VOL.6/ (78) dated 1 July 2014 and Kenya Gazette Notice No. 5440 of August 2014.

In addition, differences between actuals and estimates for the year under review have not been explained as required by the Public Sector Accounting Standards Board (PSASB).

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the format did not conform as prescribed under Section 82(2) (b) of the Public Finance Management Act, 2012, Treasury Circular No. AG.3/088 VOL.6/ (78) dated 1 July 2014 and Kenya Gazette Notice No. 5440 of August 2014. However, the format was amended and the financial statement resubmitted.

Committee Observations and Findings

The Accounting Officer submitted that it was true that the format did not conform as prescribed under Section 82(2) (b) of the PFM Act, 2012, Treasury Circular No. AG.3/088 VOL.6/ (78) dated 1 July 2014 and Kenya Gazette Notice No. 5440 of August 2014. However, the format was subsequently rectified and the financial statement resubmitted.

Committee Recommendations

The Accounting Officer should prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time in compliance with the provisions of Section 81(3) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

89. Accuracy of the Revenue Statement

The revenue statement reflects actual revenue collections of Kshs.10,177,309,165 during the year under review of which the following anomalies were noted;

89.1 The statement of revenue reflects Kshs.10,177,309,165 which differs with the trial balance amount of Kshs.9,816,403,654 resulting in a difference of Kshs.360,905,511.00 which has not been reconciled.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the total collection as per our Revenue Statement differs with the amount reflected in the Trial Balance by Kshs. 360,905,511.00. The difference between the two, which was as a result of system challenges was ultimately reconciled, adjusted and balanced.

Committee Observations and Findings

The total collection as per the Revenue Statement differs with the amount reflected in the Trial Balance by Kshs. 360,905,511.00. The difference between the two, which was as a result of system challenges was ultimately reconciled, adjusted and balanced.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

89.2 Audit inspection undertaken at the Directorate of Criminal Investigations (DCI) Headquarters indicates that 543,108 Police Clearance Certificates were issued, out of which Kshs.543,108,000 was realized as application fees. However, the statement reflects a collection of Kshs. 350,078,533 against DCI resulting in a loss of Kshs. 193,029,467 which has not been explained or reconciled.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Kshs.350,078,533.00 was reported in the statement during the year under review. It is also true that 543,108 certificates of clearance were issued during the same period.

The Kshs. 350,078,533.00 is the amount collected at the DCI headquarters and county offices. A further Kshs. 83,677,450.00 was collected through various Huduma Centres countrywide which remained un-surrendered as at the end of the financial year. This leaves an outstanding balance of Kshs. 109,352,016.65. He clarified that the payments are received well in advance and certificates issued later. Since the reporting of revenue collected is based on cash basis, the amount of Kshs.109,352,016.55 related to certificates issued during the financial year 2015/2016 but was paid for in 2014/2015.

Committee Observations and Findings

(i) **It is also true that 543,108 certificates of clearance were issued during the same period. Kshs. 350,078,533.00 is the amount collected at the DCI headquarters and county offices. A further Kshs. 83,677,450.00 was collected through various Huduma Centres countrywide which remained un-surrendered as at the end of the financial year. This leaves an outstanding balance of Kshs. 109,352,016.65.**

(ii) **It was clarified that the payments are received well in advance and certificates issued later. Since the reporting of revenue collected is based on cash basis, the amount of Kshs. 109,352,016.55 related to certificates issued during the financial year 2015/2016 but was paid for in 2014/2015.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory.Therefore, the matter is resolved.

89.3 Although the revenue statement reflects an amount of Kshs. 2,632,208,599 against immigration visa and other consular fees, it was not possible to confirm the accuracy and completeness of this amount as entry declaration forms and applications for visa forms together with the receipts could not be verified due to poor record keeping at the immigration offices at Jomo Kenyatta and Moi International Airports.

Although, the Department explained that their inability to capture this data electronically is due to lack of necessary software that is compatible with information maintained by International Airlines, passports for all arriving passengers are scanned at points of entry. No reason has been given for failure to provide this information required in accordance with Section 9 (1) (e); 62(1) and (2) of the Public Audit Act, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the financial statement reflects Kshs. 2,632,208,599.00 against immigration visas and other consular fees. He clarified that the statement is prepared based on a cash basis and not accrual basis. An analysis of how this amount was arrived at, having been derived from the individual deposits reflected in the statement is attached for verification purposes. In order to clarify the issues raised I wish to state the following;

(i) Entry Declaration and application for visa fee forms:

(ii) These documents are usually parked in cartons on a daily basis, due to the magnitude and space they cannot be arranged in racks. However, all cartons are well labeled indicating the period of the records they hold.

(iii) Receipts books are also well arranged and recorded in the CRB registers.

1) The airline passenger manifests are available in hard copies.

All the above documents have been availed to the auditor for verification.

In view of the above, I wish to confirm that the Kshs. 2,632,208,599.00 reflected in the statement of revenue is a true reflection of the immigration visa and other consular fees reflected in the bank statement of Ministry of Interior and Coordination of National Government during the 2015/2016 financial.

Committee Observations and Findings

- **(i) The financial statement reflected Kshs. 2,632,208,599.00 against immigration visas and other consular fees;**
- **(ii) An analysis of how this amount was arrived at, having been derived from the individual deposits reflected in the statement has been submitted for verification purposes.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory.Therefore, the matter is resolved.

89.4 Field audit inspections revealed that revenue amounting to Kshs. 77,925,416 was collected at various County and Sub-County Administration Police offices from Hire of Police Services. However, the completeness of revenue collected could not be confirmed since the Department does not keep Miscellaneous Receipts (MR) Receipt Vouchers (F.O. 17) and the same has not been posted to cash books and Integrated Financial Management Information (IFMIS) ledger.

In this regard, revenue amounting to Kshs.77,925,416 has not been reflected in the revenue statement contrary to Section 64(4) of the Public Finance Management Regulations, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that revenue amounting to Kshs.77,925,416.00 was collected at various counties and sub counties administrative offices from hire of police services.

He clarified that this revenue is banked direct to Kenya Commercial Bank, revenue collection account number 1119759730 which is used by all departments and held at the Ministry of Interior headquarters.

Funds in this account are transferred to the Ministry's Central Bank of Kenya revenue account every Monday as block figures and not as individual entries. It was the block figures that are captured in the IFMIS system.

Committee Observations and Findings

- **(i) Revenue amounting to Kshs.77,925,416.00 was collected at various counties and sub counties administrative offices from hire of police services and was banked direct to Kenya Commercial Bank, revenue collection account number 1119759730 which is used by all departments and held at the Ministry of Interior headquarters;**
- **(ii) Funds in this account are transferred to the Ministry's Central Bank of Kenya revenue account every Monday as block figures and not as individual entries. It was the block figures that are captured in the IFMIS system.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

89.5 Examination of bank reconciliation statements maintained at Kilifi Sub-County (Bahari), for bank account number 1145222625 KCB, Kilifi, Ministry of Interior and Coordination of National Government dated 8 April 2016 indicates that revenue amounting to Kshs. 1,538,800 received through Cheque No. 829 from hire of security was not surrendered or accounted for, contrary to Section 76 (2) of the Public Finance Management Act, 2012.

Submission by Accounting Officer

The accounting officer submitted that it was true that the revenue amounting to Kshs 1,538,800 was received through cheque No. 829 for hire of security. He noted that the amount was duly surrendered.

Committee Observations and Findings

Revenue amounting to Kshs. 1,538,800 received through Cheque No. 829 from hire of security was not surrendered or accounted for in time contrary to Section 76 (2) of PFM Act, 2012. This was later surrendered and

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

89.6 Examination of revenue records maintained at the District Accountant's office, Likoni indicates that revenue totaling Kshs.1,606,180 was received from hire of security, out of which Kshs.863,300 was surrendered to the Permanent Secretary, Ministry of Interior, resulting in a loss of Kshs.742,880 which has not been recovered or explained.

Submission by Accounting Officer

The Accounting Officer submitted that the amount of revenue was erroneously indicated to have been collected from Administration Police Service whereas it belongs to Civil Registration department as indicted in the attached copies of MR receipts. In addition, the Department obtained KCB deposit bank slips in respect of deposits made to Immigration & Registration of persons and copies are available.

Committee Observations and Findings

(i) **Records maintained at the District Accountant's office, Likoni indicates that revenue totaling Kshs.1,606,180 was received from hire of security, out of which Kshs.863,300 was surrendered to the Principal Secretary, Ministry of Interior, resulting in a difference of Kshs.742,880 which was not recovered or explained at the time of audit;**
(ii) **The amount of revenue was erroneously indicated to have been collected from Administration Police Service whereas it belongs to Civil Registration department as indicted in the copies of MR receipts. In addition, the Department obtained KCB deposit bank slips in respect of deposits made to Immigration & Registration of persons and copies are available.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

89.7 Revenue records maintained at Sub-County Administration Police Commander's office, Kwale reflect that revenue amounting to Kshs. 1,575,020 was collected from hire of security services. However, available records show that Kshs.705,000 was surrendered to the District Accountant, resulting in a loss of Kshs.870,020 that has not been recovered or explained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that verification by the headquarter revealed that the banks guarded deducted amounts they had used to buy officers lunches since they were working over lunch hour without a break. He noted that the bank had been notified about the under payment.

Committee Observations and Findings

(i) Revenue records maintained at Sub-County Administration Police Commander's office, Kwale reflect that revenue amounting to Kshs. 1,575,020 was collected from hire of security services. However, available records show that Kshs.705,000 was surrendered to the District Accountant, resulting in a loss of Kshs.870,020 that was not recovered or explained at the time of audit; and

(ii) Verification by the headquarters revealed that the banks guarded deducted amounts they had used to buy officers lunches since they were working over lunch hour without a break. The bank had been notified about the under payment.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory.Therefore, the matter is resolved. Further, theAccounting Officer must ensure that the banks which hire police guarding services pay the agreed amounts as per contract.

89.8 Examination of Counter Receipt Book Register (CRBR) maintained at the District Accountant's office at Kilifi Sub-County (Bahari) indicates that eight (8) miscellaneous receipt books were issued to DCIO Kilifi. However, a verification undertaken at the DCIO's offices in Kilifi and Mtwapa revealed that these books were not received. Consequently, the revenue collected using these books has been lost.

Submission by Accounting Officer

The Accounting Officer submitted that the above books at DCIO Kilifi were actually issued by the District Treasury Kilifi and the details pertaining to their issuance and accountability are as follows.

i. **Receipt No. 6456001 – 6456050**

He noted that the MR. receipt was issued to the DCIO Kilifi office on 13th May 2015 and posted at CCIO Kilifi office CRB on the same day. This receipt book was used to collect revenue at DCIO office Kilifi (Mtwapa) as from 7th June 2015 – 22nd June 2015 and a total of Kshs. 50,000 was collected using this receipt book. This amount was banked at KCB Kilifi Branch on 30th June 2015 Account no. 1119759730 under the payee PS Interior and Coordination of National Government.

ii. **Receipt No. 6456151 – 6456200**

He noted that the MR. receipt was issued to the DCIO Kilifi office on 2nd June 2015 and posted at CCIO Kilifi office CRB. This receipt book was used to collect revenue at DCIO office Kilifi (Mtwapa) as from 2nd June 2015 – 29th June 2015 and a total of Kshs. 50,000 was collected using this receipt book. This amount was banked at KCB Kilifi Branch on 29th June 2015 Account no. 1119759730 under the payee PS Interior and Coordination of National Government.

iii. **Receipt No. 9207451 – 9207500**

He noted that the MR. Receipt book was issued to the DCIO Kilifi on 17th May 2015 and posted at CCIO Kilifi office CRB on the same day. This receipt book was used to collect revenue at DCIO office Kilifi (Mtwapa) as from 18th May 2015 – 23rd May 2015 and a total of Kshs. 50,000 was collected using this receipt book. This amount was banked at KCB Kilifi Branch on 5th August 2015 Account no. 1119759730 under the payee PS Interior and Coordination of National Government. The revenue was duly collected and surrendered.

iv. **Receipt No. 9263501 – 9263550**

He noted that the MR. Receipt book was issued to the DCIO Kilifi on 26th May 2016 and posted at CCIO Kilifi office CRB on the same day. This receipt book was used to collected revenue at DCIO office Kilifi (Mtwapa) as from 2nd June 2016 – 10th June 2016 and a total of Kshs. 50,000 was collected using this receipt book. This amount was banked at KCB Kilifi Branch on 14th Jun 2015 Account no. 1119759730.

v. **Receipt No. 9263551 – 9263600**

He noted that the MR. receipt was issued to the CCIO Kilifi on 3rd June and posted at CCIO Kilifi office CRB on the same day. This receipt book was used to collect revenue at CCIO office Kilifi as from 3rd June 2016 – 7th June 2016 and a total of Kshs. 50,000 was collected using this receipt book. This amount was banked at KCB Kilifi Branch Account no. 1119759730

vi. **Receipt No. 9151551 – 9151600**

He noted that the MR. Receipt book was issued to the CCIO Kilifi office and posted at CCIO Kilifi office CRB. This receipt book was used to collect revenue at CCIO office Kilifi (Mtwapa) as from 29th June 2016 – 5th July 2016 and a total of Kshs. 50,000 was collected using this receipt book. This amount was banked at KCB Kilifi Branch as follows on 30th June 2016 Kshs. 15,000 and on 14th July 2016 Kshs. 35,000 on Account no. 1119759730.

vii. Receipt No. 9263601- 9263650

He noted that the MR receipt was issued to the CCIO Kilifi on 3rd June 2016 and posted to CCIO Kilifi office CRB on the same day. This receipt book was used to collect revenue at CCIO office Kilifi as from 3rd June 2016-7th June 2016 and a total of Kshs 50,000.00 was collected using receipt book.

This amount was banked at KCB Kilifi branch on 4th August 2016 Account No. 1119759730 under the name PS Interior and Co-ordination of National Government.

viii) Receipt No. 9255901 -9255950

He noted that the MR receipt was issued to the DCIO Kilifi office and posted at CCIO Kilifi office CRB.This receipt book was used to collect revenue at DCIO office Kilifi (Mtwapa) as from 27th June 2016- 11th July 2016 and a total of KSHS 50,000.00 was collected using this receipt book.

The amount was banked at KCB Kilifi branch on 29th June 2016 and 12th July 2016 Account No.1119759730 under name PS Interior and coordination of national government.

However, he stated that the amount collected from this receipt book was banked in bits due to closure of one financial year and start of another financial year.

Committee Observations and Findings

The explanation by the Accounting Officer was satisfactory.Therefore, the matter is resolved.

89.9 Information and records available indicates that NSSF Kisumu paid a total of Kshs.4,408,500 to the Sub-County AP Commander Kisumu Central for provision of armed security services on their plot at Milimani. However, fake receipts which are not accountable documents were issued in exchange of money which was not surrendered to the Ministry. Although the responsible officer has since been transferred to Kwale County, the loss has not been recovered.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the receipts totaling to Kshs 4,408,500.00

were not official government documents.These receipts had been provided for by lunch service providers catering for the officers guarding the property**.**

Committee Observations and Findings

(i) Counter Receipt Book Register (CRBR) maintained at the District Accountant's office at Kilifi Sub-County (Bahari) indicated that eight (8) miscellaneous receipt books were issued to DCIO Kilifi. However, a verification undertaken at the DCIO's offices in Kilifi and Mtwapa revealed that these books were not received.

(ii) The books at DCIO Kilifi were actually issued by the District Treasury Kilifi and the details pertaining to their issuance and accountability were provided.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

90. Huduma Centers

Although Huduma Centres have enhanced service delivery, revenue collected on behalf of the Principal Secretary, State Department for Interior, being the designated receiver of revenue, has not been surrendered and transferred to the Exchequer contrary to Section 76(2) of the Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer submitted that the Huduma Centres were established to ensure that customers fully experience the benefits of a one-stop environment, and are not referred to other service delivery points to complete a service. With regard to amounts collected and surrendered to the Ministry's revenue account the position is as shown below:

Department	Amount collected	Amount Surrendered	Balance Due

DCI	91,471,950.00	35,851,600.00	55,620,350.00
Civil Registration Department	19,648,731.00	8,184,848.00	11,463,880.00
TOTAL	**111,120,681.00**	**44,036,448.00**	**67,084,230.00**

The amounts already surrendered have been transferred to Exchequer.As efforts are made to ensure postal corporations of Kenya pays the balance, payments have been diverted to e-citizen platform which has proved to be more cost effective and efficient.

Committee Observations and Findings

(i) Revenue collected on behalf of the Principal Secretary, State Department for Interior, by the Huduma Centers of Kshs. 111,120,681.00 had not been surrendered and transferred to the Exchequer contrary to Section 76(2) of the Public Finance Management Act, 2012; and

(ii) The Accounting Officer has followed up on the revenue collection at the Huduma Centre and so far Kshs. 44,036,448.00 has been surrendered leaving out a balance of Kshs. 67,084,230.00

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved. Further, the Accounting Officer should ensure that the pending balance of Kshs. 67,084,230.00 is duly surrendered by the Huduma Centers to the State Department.

THE GOVERNMENT PRESS FUND

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this fund.

Committee Commendation

The Committee commends the Accounting Officer for the Government Press Fund for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

KENYA CITIZENS AND FOREIGN NATIONALS MANAGEMENT SERVICE

Basis for Qualified Opinion

91. Prior Year Matters

As previously reported, the Acting Director-General was paid a sum of Kshs.6,735,000 contrary to the Cabinet Secretary's letter that required terms and conditions of engaging the Acting Director-General to be determined in consultation with the Salaries and Remuneration Commission. Further, no justification has been made for failure to recruit the Director-General/Chief Executive Officer competitively in accordance with Section 13(1) and (2) of the Kenya Citizens and Foreign Nationals Management Act, 2011. In addition, failure by the State Corporations Advisory

Committee (SCAC) to categorize the Service has hampered it from discharging its mandate effectively as stipulated in Section 4(2) V of the Kenya Citizens and Foreign Nationals Management Service Act Cap 174, Laws of Kenya.

Submission by Accounting Officer

The accounting officer submitted that the rising from the above, the KCFNMS Board has not appointed a substantive Director General/Chief Executive Officer and further, the proposed organization and pay structure devised by the Board has not been approved by the Salaries and Remuneration Commission.

Recruitment of the Director General, the KCFNMS Board advertised for the post internally and conducted interviews for the post of the Director General and the names of the shortlisted candidates were forwarded to the Cabinet Secretary for him to appoint one among the qualified shortlisted candidates and the Board is still awaiting response from the Cabinet Secretary.

The KCFNMS has made various correspondences and held consultative meeting with salaries and Remuneration Commission (SRC) on the issue of the salary structure for the organization.

Salary Remuneration Commissioner (SRC) has not made a decision on the matter because the service has not been categorized by state Corporations Advisory Committee (SCAC).

Committee Observations and Findings

Recruitment of the Director General, the KCFNMS Board, advertised for the post internally and conducted interviews for the post of the Director General and the names of the shortlisted candidates were forwarded to the Cabinet Secretary for him to appoint one among the qualified shortlisted candidates and the Board is still awaiting response from the Cabinet Secretary.

92. Irregular Expenditure

The statement of comparison of budget and actual amount reflects actual expenditure totaling Kshs. 47,988,000 against total budget of Kshs. 102,566,000 for the financial year under review. However, the budget was not approved by the Cabinet Secretary contrary to Section 19(3) of the Kenya Citizens and Foreign Nationals Management Act, 2011. In addition, the omission contravened Section 68 (1) of the Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer submitted that in the Financial Year 2015/16, The Budget for Kenya Citizen and Foreign National Management Act (KCFNMS) was prepared, approved by the board and signed by the chairperson of the board. Since the service is not fully operational and the funds allocated are meant to assist the Board in its day to day operations, it would therefore imply that the funds are used majorly for facilitating the Board meetings, hence then omission.

However, the Board's budget for the Financial Year 2016/2017 and Financial Year 2017/18 was approved by the Cabinet Secretary as required under the Act.

Committee Observations and Findings

(i) The accounting officer submitted that in the Financial Year 2015/16, The Budget for Kenya Citizen and Foreign National Management Act (KCFNMS) was prepared, approved by the board and signed by the chairperson of the board;

(ii) Since the service is not fully operational and the funds allocated are meant to assist the Board in its day to day operations, it would therefore imply that the funds are used majorly for facilitating the Board meetings, hence then omission. However, the Board's budget for the Financial Year 2016/2017 and Financial Year 2017/18 was approved by the Cabinet Secretary as required under the Act.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. However, the Cabinet Secretary for Ministry of Interior and Co-ordination of NationalGovernment **should, within three (3) months months of adoption of this report, finalize the appointment of a substantive Director-General for the KCFNMS.**

6.0. THE STATE DEPARTMENT FOR COORDINATION OF NATIONAL GOVERNMENT FINANCIAL STATEMENTS FOR VOTE 1022

Mr. Alfred Cheruiyot, the Accounting Officer for Vote 1022, State Department for Coordination of National Government appeared before the Committee on 18th May 2018 to adduce evidence on the audited Financial Statements of Vote 1022 State Department for Coordination of National Government for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.He wasaccompanied bythe following Officials:

1. **Mr. Isaya Osugo - Commissioner General Prison Service;**
2. **Mr. W Wandona –Ag. Director Correctional Service;**
3. **Mr. Patrick Kariri – Deputy Director Prison Service;**
4. **Mr. Kerandi Sasah - Chief Finance Officer Correctional Service;**
5. **Mr. Joseph K. Mwangi - Senior Chief Accountant Correctional Service;**
6. **Mr. Josphat K. Huke - Senior Chief Accountant Kenya Prison Service;**
7. **Mr. Mwangi Daniel - Accountant Correctional Services;**
8. **Mr. Shadrack K. Kavutai - Accountant Probation; and**
9. **Mr. James M. Nyabocha, CE Correctional Service**

Basis for Disclaimer of Opinion

95. Differences between the Financial Statements and the Trial Balance

The expenditure balances for various items reflected in the statement of receipts and payments differ with the trial balance balances as at 30th June 2016. The resulting positive and negative differences totaling Kshs. 16,030,076 and Kshs.984,492,589 respectively have not been investigated and corrected. In the circumstance, the accuracy of the financial statements could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that there were differences between the statement of receipts and payments and the Trial balance as at 30/6/2016. The difference of the two sets of records was caused by timing differences. The time of running IFMIS notes to the Accounts which were reflected in the Financial Statement was not the same time when the trial balance was produced. The trial balance report at the time when the notes to financial statement was run completed with an error. This was beyond the State Department's control. The State Department generated the Trial Balance report several times on different days and times but completed with an error. The State Department has notified the National Treasury about the problems with IFMIS on back-end processes failure which affects report generation.

Committee Observations and Findings

(i) **There were differences between the statement of receipts and payments and the trial balance as at 30th June 2016. The difference of the two sets of records has been attributed to timing differences between the time of running IFMIS notes to the accounts and the time of trial balance report which was completed with an error; and**

(ii) **According to the Accounting Officer, the State Department generated the trial balance report several times on different days and times but completed with an error. This challenge has been notified to the National Treasury to address the IFMIS back-end processes failure which affects report generation.**

Committee Recommendations

(i) **The IFMIS has persistently been blamed by the Accounting Officers for various challenges that impede effective public finance management including budget execution, accounting and reporting. The Cabinet Secretary for the National Treasury should within three months (3) months after adoption of this report submit to the National Assembly an IFMIS guidelines that addresses the back-end processes failures and support timely budget execution including accounting &reporting; and**

(ii) **The Accounting Officer should not rely on IFMIS failures to justify failures to prepare reconciled statements but ensures that the entity at all times, prepares up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.**

96. Acquisition of Assets

The statement of receipts and payments show that the State Department acquired assets valued at Kshs.405,488,166 (2014/15 - Kshs.688,408,022) during the year under review. However, management does not maintain an assets register contrary to the requirements of Regulation 143 of the Public Finance Management (National Government) Regulations, 2015. Consequently, it has not been possible to verify and confirm existence and completeness of the assets acquired and issuance, use and disposal of the assets.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Department utilized Kshs.405,488,166.00 under items classified within acquisition of Assets in note 18. The figure for fixed assets for the year 2015/ 2016 was revised to Kshs.650,310,225.55 as a result of incorporating additional data from field stations. The State Department is in the process of compiling a fixed assets register from both headquarter and field stations. The Department is waiting for details on assets from the field stations to complete the update.

Committee Observations and Findings

(i) **The statement of receipts and payments showed that the State Department acquired assets valued at Kshs. 405,488,166 during the year under review. However, management does not maintain anassets register contrary to the requirements of Regulation 143 of the PFM (National Government) Regulations, 2015.**

Committee Recommendations

(i) **The Accounting Officer should be reprimanded by the Cabinet Secretary for the National Treasury for failing to ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the Accounting should within three (3) months of adoption this report embark on preparing complete assets register which should be availed to the Auditor-General for audit review.**

97. Rental of Produced Assets

During the year under review, and as disclosed under Note 13 to the financial statements, the State Department incurred an expenditure of Kshs.67,527,078 on rental of produced assets. However, the State Department paid Kshs.14,305,740 and Kshs.37,257,208 for lease of office spaces at Re-Insurance Plaza and Teleposta Tower, respectively without valid lease or contract agreements contrary to Section 135 of the Public Procurement and Asset Disposal Act, 2015. In the circumstances, it was not possible to confirm the validity and propriety of lease payments totaling Kshs.51,562,948 made for the office spaces.

Submission by Accounting Officer

The Accounting Officer stated that it was also true that the lease agreement on rentals for Reinsurance Plaza was not finalized despite that payments were made amounting Kshs.14,305,739.95.It is also true that the lease agreement on rentals for Teleposta Towers was not finalized despite that payments were made amounting to Kshs. 37,257,207.80.The State Department made the payments on the basis of letter of the offer as agreed between the State Department and the lessor which in turn form the basis of the lease contract.Due to changes in the name of the State Department from Coordination of National Government to Correctional Services and changes of accounting officers, the lease contract has had to be updated severally thus causing delays in the signing of the contract. The contract documents have been forwarded to the land lord for signature.

Committee Observations and Findings

(i) **The lease agreement on rentals for Reinsurance Plaza was not finalized despite that payments were made amounting Kshs. 14,305,739.95. Further, the lease agreement on**

rentals for Teleposta Towers was also not finalized despite that payments were made amounting to Kshs. 37,257,207.80; and

(ii) The State Department made the payments on the basis of letter of the offer as agreed between the State Department and the lessor which in turn formed the basis of the lease contract. Due to changes in the name of the State Department from Coordination of National Government to Correctional Services and changes of accounting officers, the lease contract had to be updated severally thus causing delays in the signing of the contract. The contract documents have been forwarded to the land lord for signature.

Committee Recommendations

(i) The explanation by the Accounting Officer was satisfactory. However, the Accounting Officer should, within three (3) months months of adoptionof this report, ensure that a valid contract is signed and a copy submitted to the Auditor-General for audit review.

98. Fraudulent Payment of Water Bills

Examination of a sample of water bills from seven prison stations revealed that bills totaling Kshs.11,545,660 were paid and thereafter recycled for payment resulting in unexplained double payments. No action has been taken to recover the amount totaling Kshs.11,545,660 that was paid fraudulently.

Submission by Accounting Officer

The Accounting Officer stated that it was true that Audit examination of water bills from a sample of seven Prison Stations paid during the financial year 2015-2016 revealed overpayments of water bills resulting from previously paid up bills being included in the subsequent bills and paid again as indicated below:-

Gusii Water & Sanitation	4,249,999.50
Nakuru Water & Sanitation	3,791,750.00
Mombasa Water &Sanitation	2,236,880.32
Tavevo Water and Sewerage Co. Ltd	988,190.00
Narok Water and Sewerage Co.	278,840.00
TOTAL	**11,545,659.82**

The State Department notified the respective water companies and they have reflected the above said amounts as part of paid bills hence reducing the current water bills. The current bills are being checked against previously paid bills with a view of ensuring that the current bills presented for payment are correct.

Committee Observations and Findings

(i) Water bills from a sample of seven Prison Stations paid during the FY 2015/2016 revealed overpayments of water bills of Kshs. 11,545,659.82 resulting from previously paid up bills being included in the subsequent bills and paid again;

(ii) The matter remains unresolved.

Committee Recommendations

The Accounting Officer should, within three (3) months of adoption of this report, submit to the Auditor- General statement of water bills reflecting how the overpayment of water bills of Kshs. 11,545,659.82 is used to reduce the present water bills for the seven stations.

99. Accounts Receivables

The statement of assets reflects a balance of Kshs.2,916,533,471 against accounts receivables which includes Kshs.2,910,918,008, Kshs.5,415,762 and Kshs.199,700 relating to clearance accounts, central bank accounts and outstanding imprests, respectively. However, the clearance accounts' balance has not been supported by authentic and verifiable source documents contrary to Regulation 107(1) of the Public Finance Management (National Government) Regulations, 2015. Also, the reason for failure to transfer to the exchequer an amount of Kshs.5,415,762, which is disclosed under Note 23 to the financial statements as held in various central bank accounts, has not been provided. As a result, the validity, completeness and accuracy of the accounts receivables' balance of Kshs.2,916,533,471 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that tabulation on note 23 constituting clearance and outstanding imprest balances of Kshs.2,910,918,008 and Kshs.199,700 respectively. It is also true that Kshs. 2,910,918,008 does not include Kshs.5,415,762.00 in Central Bank of Kenya various bank accounts in various branches.Imprests totaling to Kshs.199,700.00 has been accounted for in full during the financial year 2016/2017 as reflected in the schedule. The amount shown as Kshs.2,910,918,008.00 and Kshs.5,415,762.00 respectively related to District suspense accounts whose expenditure had not been reflected in the Budget expenditure items. The IFMIS system could not run the report to completion at the time of Audit. The District expenditure was adjusted in the 2016/2017 financial statements.The Central Bank account balances in the branches related to unspent AIE's operated in CBK accounts. This money was later transferred to Exchequer account by National Treasury and a notification given to the State Department for Correctional Services.

Committee Observations and Findings

(i) Statement of assets reflected a balance of Kshs. 2,916,533,471 against accounts receivables which includes Kshs. 2,910,918,008, Kshs. 5,415,762 and Kshs. 199,700 relating to clearance accounts, central bank accounts and outstanding imprests, respectively;

(ii) The clearance accounts' balance was not supported by authentic and verifiable source documents contrary to Regulation 107(1) of the PFM (National Government) Regulations, 2015.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

100. Pending Bills

Pending bills totaling Kshs.4,523,107,327 as at 30 June 2016 have been disclosed under Note 26.1 to the financial statements. Had these bills been paid and the expenditure charged to the accounts for 2015/2016 financial year, the statement of receipts and payments for the year under review would have reflected a net deficit of Kshs.1,619,471,362 instead of the net surplus of Kshs.2,903,635,965 now shown. Failure to settle the bills in the year they relate to distorts the financial statements for that year and adversely affects the provisions of the subsequent year to which they are charged.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Department hadpending bills ofKshs.4,523,107,327.00 for financial year 2015/2016 and earlier years and were to be paid in financial year 2016/2017. It is also true that had the bills been paid the receipts and payments for the year would have reflected a deficit of Kshs.1,619,471,362 instead of the surplus of Kshs.2,903,635,965 now shown. I wish to state that the bills were carried forward due to inadequate budgetary provisions. These relates to food and ration, wood fuel and refined fuel and lubricants which are necessary to feed the inmates and the fuel used to transport them to courts. However, State Department is in liaison with the National Treasury for additional funding to enable payment of the pending bills.

Committee Observations and Fin dings

(i) **The State Department had pending bills of Kshs. 4,523,107,327.00 for the FY 2015/2016 and earlier years and were to be paid in the FY 2016/2017. Had the bills been paid the receipts and payments for the year would have reflected a deficit of Kshs.1,619,471,362 instead of the surplus of Kshs.2,903,635,965; and**

(ii) **The pending bills relates to food and ration, wood fuel and refined fuel and lubricants which are necessary to feed the prison inmates and the fuel used to transport them to courts. The State Department is in liaison with the National Treasury for additional funding to enable payment of the pending bills.**

Committee Recommendations

The Cabinet Secretary, National Treasury and the Cabinet Secretary responsible for prisons matters, should within three (3) months of adoption of this report form a joint Prions Pending Bills Committee to look into the pending bills of Kshs. Kshs. 4,523,107,327.00 (Kshs. 4.5 billion) with a view to clear genuine bills and keep the inmates safe and adequately fed.

101. Cash and Bank Balances

The statement of assets as at 30 June 2016 reflects cash and bank balances totaling Kshs.60,126,965. The balances as disclosed under Note 22 to the financial statements include development, recurrent, deposits and prison industries fund bank balances of nil, Kshs.1,517,866, Kshs.8,613,817 and Kshs.46,659,680 respectively and cash on hand of Kshs.3,335,602. The following unsatisfactory matters, however, have been observed:

i. The development bank balance has not been supported by the cash book extract as at 30 June 2016. In addition, the Board of Survey report reflects a balance of Kshs. 6,237,318 and not a nil balance as at 30 June, 2016.
ii. The recurrent bank balance has not been supported by a Board of Survey report and the cash book extract as at 30 June, 2016.
iii. The deposit and prison industries fund bank balances have not been supported by the respective cash book extracts, Board of Survey reports and bank reconciliation statements as at 30 June, 2016.
iv. All the bank balances have not been supported by the respective certificates of bank balances as at 30 June, 2016.

The accuracy of cash and bank balances of Kshs.60,126,965 could not, therefore, be confirmed under the above circumstances.

Submission by Accounting Officer

The Accounting Officer stated that it was true there was a difference between the cash book balances and Financial Statements. The difference has been analyzed as below:-

	Statement(Ksh)	**Cashbook(Ksh)**	**Variance(Ksh)**
Recurrent	1,517,866.00	1,517,866.00	-
Deposit	8,613,817	4,912,121.40	3,701,695.60
Prison Fund	46,659,680	11,157,779.35	35,501,900.65
	56,791,363	**17,587,766.75**	**39,203,596.25**

The statement figures are from the bank statement as at 1st September, 2016 24th August, 2016 and 31st August, 2016 when the State Department of Coordination Bank Accounts closed while the cash book balances are as at 30/6/2016, the end of the financial year.The cash book balances have been updated to reflect the true position of the financial statements.

Committee Recommendations

(i) The explanation by the Accounting Officer was satisfactory.Therefore, the matter is resolved.

102. Prior Year Matters

102.1 Unaccounted for Revenue

As reported in the previous years, the Prisons Industries and Farms Revolving Funds had deposited Kshs.231,232,519 in the Ministry's Headquarters Deposit Account. The entire amount was apparently miss-appropriated. However, no recoveries have, been made to date.

Submission by Accounting Officer

The Accounting Officer stated that it wastrue that the previous years, the Prisons Industries and Farms revolving Funds had deposited Kshs.231,232,519 in the Ministry Headquarters Deposit Account. The figure of Kshs.231,232,519 relates to fund account which was prepared on accrual basis of accounting hence recognizing outstanding receipts.

The above figure is composed of:

2012/2013	-	175,985,430.51
2013/2014 (upto Oct 2013 balances) -		55,245,087.95
		231,232,518.46

The State Department has written to State Department for Interior to pay the Kshs.55,245,087.95 and also to National Treasury for the Kshs.175,987,430.51

Committee Observations

The Committee marked the matter as resolved after considering the correspondences on the realignment and restructuring of government.

102.2 Biogas Project at Kenya Prison Service

As reported in the previous years, the Kenya Prisons Service initiated biogas projects in fourteen (14) Prisons across the Country at an estimated cost of Kshs.122,129,538 out of which an expenditure totaling Kshs.95,758,296 was incurred. However, none of these projects were operational as of 30thJune, 2016.

Submission by Accounting Officer

The Accounting Officer stated that it wastrue that the previous years, the Kenya Prisons Service initiated biogas projects in fourteen (14) - Prisons across the County at an estimated cost of Kshs.122,129,538 out of which an expenditure totaling Kshs.95,758,296 was incurred and none of these projects were operational as of 30th June, 2016.The State Department has received the estimated cost of the remaining works from Public Works and State Department of Energy to enable request to be made for budget provision to complete the 14 projects

Committee Observations and Findings

(i) **The Committee observed that the bio gas project was a very good idea. However, the Ministry of Public Works and Ministry of Housing did not do proper fact finding on the requirements for a fully functional biogas project of that magnitude; and**

(ii) **The allocated funds were not enough to complete the project due to variations of works by the Ministry of Public Works.**

Committee Recommendations

(i) **The Ministry of ,must always put in place proper measures to avoid loss of funds incurred through variations and delayed completion of government projects arising from BQs not well consider. Further, must always give approval for payments of works completed on a particular project without delay; and**

(ii) **The Accounting Officer should liaise with the National Treasury to ensure that adequate budgetary provision is provided to complete this project.**

REVENUE STATEMENTS

Unqualified Opinion

There were no material issues noted during the audit of this revenue statement.

PRISON INDUSTRIES REVOLVING FUND

Basis for Disclaimer of Opinion

103. Debtors

The debtor's balance of Kshs.44,853,557 reflected in the statement of financial position as at 30 June 2016 includes an amount of Kshs.27,232,740 owed by Kenya Railways, Director of Public Prosecutions, Commissioner of Prisons and Kakamega and Bomet County Governments. No explanation has been provided for failure to recover Kshs.27,232,740 from these government agencies.

Submission by Accounting Officer

The Accounting Officer stated that it was true that during the financial year 2015/16, Prison Industries had a balance of Kshs.44,853,557.16owed to the fund by government institutions. The State Department has been able to recover Kshs. 8,454,983.90, however, Kenya Railways Kakamega and Bomet County governments are yet to settle their debts amounting to Kshs.18,777,756.10.

Committee Observations and Findings

During the FY 2015/16, Prison Industries had a balance of Kshs. 44,853,557.16 owed to the fund by government institutions. The State Department has been able to recover Kshs. 8,454,983.90, however, Kenya Railways, Kakamega and Bomet County governments are yet to settle their debts amounting to Kshs. 18,777,756.10.

Committee Recommendations

(i) **The Managing Director, Kenya Railways should, within three (3) months of adoption of this report, pay all debts owed to Prisons Industries Revolving Fund; and**

(ii) **The County Governments of Kakamega and Bomet Counties should within three (3) months of adoption of this report pay all debts due to Prisons Industries Revolving Fund failure to which the Cabinet Secretary, National Treasury should proceed and deduct these monies from revenue due to these counties at source.**

104. Suspense Account

The statement of financial position also reflects a balance of Kshs.3,984,890 (year 2014/2015 – Kshs.3,966,131) against suspense account that has not been analyzed. The balance has been disclosed under Note 10 to the financial statements as a balancing figure after the books of account failed to agree in previous years. The validity, completeness and accuracy of the balance could not therefore be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of financial position also reflects a balance of Kshs.3,984,890 (year 2014/2015 - Kshs.3,966,131) against suspense account that had not been analyzed. In this regard, I wish to state that the figure is caused by non-receipt of the unspent AIE's in the field stations. The AIE's are channeled to the field through one General AIE Account where other AIE's are credited. At the end of the year any unspent Bank balance is relayed back to Treasury exchequer Account. This mix up leaves Farm account balances with Suspense Account.

Committee Observations and Findings

The statement of financial position also reflected a balance of Kshs. 3,984,890 (year 2014/2015 – Kshs. 3,966,131) against suspense account that has not been analyzed.

Committee Recommendations

The Cabinet Secretray, National Treasury should within three (3) months months of adoption of this report, reprimand the then accounting for failure to ensure entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

105. Creditors Account

The statement of financial position reflects a balance of Kshs.61,314,106 (year 2014/2015 – Kshs.61,137,546) against creditors. No explanation has been provided, similarly like in the previous years, for failure to settle the Fund's obligations to its suppliers despite the huge bank (P.M.G) balance.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the financial statement of the fund reflected outstanding creditors balance of Kshs.61,137,546.00 which was an increase compared to the opening balance of Kshs.51,229,625.00. Those creditors balance had been occasioned by the Pay Master General (PMG) non transfer of the Kshs.55,245,087.95 to the new opened Prison Industries fund account at CBK in the financial year 2013/2014. This had affected the cash flow of the year hence leading to accumulation of creditor's balance of Kshs.51,229,625.00 which was carried forward to financial year 2014/15. This sequentially affected 2014/15 cash flow hence the increase of creditors balance.The State Department has settled all the creditors that were outstanding as at 30th June, 2015

Committee Observations and Findings

The financial statement of the fund reflected outstanding creditors balance of Kshs. 61,137,546.00 which was an increase compared to the opening balance of Kshs. 51,229,625.00. The balances had been occasioned by the Pay Master General (PMG) non transfer of the Kshs. 55,245,087.95 to the new opened Prison Industries fund account at CBK in the FY 2013/2014. This sequentially affected 2014/15 cash flow hence the increase of creditors balance. The State Department has settled all the creditors that were outstanding as at 30th June, 2015.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

106. Paymaster General

The statement of financial position reflects a balance of Kshs.165,952,193 against paymaster general account (P.M.G) whereas the board of survey certificate reflects a balance of Kshs.11,157,928 as at 30 June, 2016. No explanation has been provided for the discrepancy of Kshs.154,794,265 between the two sets of records.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of financial position reflects a balance of Kshs.165,952,193 against paymaster general account (PMG) whereas the board of survey certificate reflects a balance of Kshs.11,157,928 as at 30th June, 2016 giving a discrepancy of Kshs.154,794,265 between the two sets of records. The discrepancy of Kshs.154,794,265 is caused by balances from old bank accounts after the merger of Ministry of Home Affairs to form the Ministry of Interior and National Coordination. The State Department is following the transfer of these funds from State Department of Interior and also National Treasury was to alleviate the situation.

Committee Observations and Findings

The statement of financial position reflects a balance of Kshs.165,952,193 against paymaster general account (PMG) whereas the board of survey certificate reflects a balance of Kshs.11,157,928 as at 30th June, 2016 giving a discrepancy of Kshs.154,794,265 between the two sets of records. The discrepancy of was caused by balances from old bank accounts after

the merger of Ministry of Home Affairs to form the Ministry of Interior and National Coordination.

Committee Recommendations

The Accounting Officer should within three (3) months of adoption of this report follow up the transfer of these funds from State Department of Interior and the National Treasury.

107. Fixed Assets

The statement of financial position reflects a fixed assets balance of Kshs.87,845,864 as at 30 June, 2016. The fixed assets include scrap machinery worth Kshs.2,926,440 which have since become obsolete. However, the management of the Fund did not maintain a fixed assets register. In addition, there is no policy instituted by management on depreciation and replacement of fixed assets. Consequently, it is not possible to confirm the existence and correct value of fixed assets reflected in the financial statements.

Submission by Accounting Officer

The Accounting Officer stated that it was true statement of financial position reflects a fixed assets balance of Kshs. 87, 845,864 as at 30th June, 2016. The fixed assets include scrap machinery worth Kshs.2,926,440 which have since become obsolete. The State department is in the process of compiling the fixed assets register for all the stations. It has been able to account for Kshs.56,393,370 for vehicles and Kshs.22,388,220.93 for machinery and equipment

Committee Observations and Findings

(i) **The statement of financial position reflects a fixed assets balance of Kshs. 87,845,864 as at 30 June, 2016. The fixed assets include scrap machinery worth Kshs. 2,926,440 which have since become obsolete. However, the management of the Fund did not maintain a fixed assets register**; and

(ii) **The State department is in the process of compiling the fixed assets register for all the stations. It has been able to account for Kshs. 56,393,370 for vehicles and Kshs. 22,388,220.93 for machinery and equipment**

Committee Recommendations

The Accounting Officer should be reprimanded by the Cabinet Secretary for the National Treasury for failing to ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the Accounting should within three (3) months of adoption of this report embark on preparing complete assets register which should be availed to the Auditor-General for audit review.

PRISON FARM REVOLVING FUND

Basis for Qualified Opinion

108. Debtors

The statement of financial position as at 30 June 2016, reflects a debtors balance of Kshs.176,413,406 (year 2014/2015 – Kshs.189,490,028) relating to food ration supplied to the Commissioner General of Prisons. Although the State Department of Correctional Services has explained that the debts were not cleared during the year due to inadequate funding, measures taken to avoid accumulation of huge debts in future have not been indicated.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of financial position as at 30th June, 2016, reflects a debtors balance of Kshs.176,413,406 (year 2014/2015 – Kshs.189,490,028) relating to food ration supplied to the Commissioner General of Prisons. The State Department has requests the National Treasury for additional funds. The State Department has settled Kshs.172,986,009.50 owed to Prison Farms as 30th June, 2016. The State Department has liaised with the National Treasury and is in the process of implementing station based budget in the 2018/2019 budget based on average lock up to avoid future debts.

Committee Observations and Findings

- **(i) The statement of financial position as at 30th June, 2016, reflected a debtors balance of Kshs.176,413,406 and Kshs.189,490,028 for the FY 2014/2015 relating to food ration supplied to the Commissioner General of Prisons;**
- **(ii) The State Department has requests the National Treasury for additional funds and so far the Department has settled Kshs. 172,986,009.50 owed to Prison Farms as 30th June, 2016; and**
- **(iii) The State Department has liaised with the National Treasury and is in the process of implementing station based budget in the 2018/2019 budget based on average lock up to avoid future debts.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. However, the Accounting Officer should liaise with the National Treasury to ensure adequate budgetary provisions is allocated to clear the debts.

109. Suspense Account

The statement of financial position also reflects a suspense account balance of Kshs.15,639,561 brought forward from the previous year. However, the balance has not been supported with analyses and verifiable source documents contrary to Regulation 107 (1) of the Public Finance Management (National Government) Regulations, 2015. Consequently, the accuracy, validity and completeness of the balance of Kshs.15,639,561 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of financial position also reflects a suspense account balance of Kshs.15,639,561 brought forward from the previous year. The State Department issues field stations with fund AIEs for Farm inputs. The field stations operate a single account for Development, Recurrent and Fund per station. At the end of the financial years all the Bank balances in the field stations are banked and the National Treasury recoups the Farm fund balances as part of lapsed funds hence difficulties in isolating the voted and fund balances.
The State Department has requested the National Treasury to allow for separate Bank accounts one for the farm and the other for industry activities to enhance accountability in the funds

Committee Observations and Findings

- **(i) The statement of financial position also reflected a suspense account balance of Kshs. 15,639,561 brought forward from the previous year;**
- **(ii) The State Department issues field stations with fund AIEs for Farm inputs. The field stations operate a single account for development, recurrent and Fund per station. At the end of the financial years all the bank balances in the field stations are banked and the National Treasury recoups the Farm Fund balances as part of lapsed funds hence difficulties in isolating the voted and Fund balances; and**
- **(iii)The State Department has requested the National Treasury to allow for separate Bank accounts one for the farm and the other for industry activities to enhance accountability in the funds**

Committee Recommendations

- **(i) The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report, consider and advise the accounting officer on the request of the State Department to allow separate bank accounts; one for the farm and the other for industry activities to enhance accountability in the Funds.**

7.0. MINISTRY OF DEVOLUTION AND PLANNING

7.1. STATE DEPARTMENT FOR PLANNING

FINANCIAL STATEMENTS FOR VOTE 1031

Mr. Julius Muia, the Accounting Officer for Vote 1031, State Department of Planning and Dr. Francis Owino, the Accounting Officer for State Department of Public Service & Youth Affairsappeared before the Committee on 7th January 2019 to adduce evidence on the audited Financial Statements of Vote 1031State Department for Planningfor the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.They wereaccompanied bythe following Officials:

1. **Mr. Osiri Nyakundi - Chief Finance Officer;**
2. **Mr. John O. Olima - Senior Principal Finance Officer;**
3. **Mr. George W. Mwangi - Principal Accountant;**
4. **Ms. Matilda Sakwa - Ag. Director General NYS;**
5. **Mr. Peter G. Karogi - Senior Accountant;**
6. **Mr. Peterson Njengwa - Personal Assistant to PS;**
7. **Mr. C.T Muchiri - D A Planning;**
8. **Ms. Florence W. Kirumba – AAG; and**
9. **Ms. Veronicah Kamau - AAG**

Basis for Disclaimer of Opinion

110. Prior year Unresolved Audit Issues

The State Department of Planning has not resolved some issues that were raised in the Auditor-General's report for the financial year ended 30 June 2015 as indicated below:

110.1 Variances between Actual and Budget Figures

The Ministry of Planning and Development in 2013/2014 under Head – 103005300 Planning and Development – Headquarters, spent Kshs.1,964,426,798 on transfers to other Government Units which had not been budgeted for. The Ministry, therefore, did not adhere to budgetary provisions and no explanations have been provided for the anomaly or mitigating measures taken so far.

Submission by Accounting Officer

The Accounting Officer stated that it was true under Head – 103005300 planning and Development Headquarters, the Ministry spent Kshs. 1,964,426,798.00 as transfer to other Government Units which had not been budgeted for.

Following Executive Order No. 2 of May 2013, certain functions were transferred from this Ministry to the Ministry of Lands, Housing and Urban Development but the budget of those functions remained with the Ministry of Devolution and Planning. During the supplementary budget 1 for the Financial Year, 2013/2014, Kshs, 4,641,224,267.00 under development was moved to the Ministry of Lands, Housing and Urban Development. At the time the budget was moved, Ministry of Devolution and Planning had already incurred expenditure to the tune of Kshs. 1,964,426,798.00 on the urban and markets Development Department. Inadvertently, this expenditure which ought to have been transferred to the Ministry of Lands, Housing and Urban Development was not transferred.

The Ministry of Devolution and Planning together with the Ministry of Lands, Housing and Urban Development have since reconciled and confirmed that the budget for the expenditure incurred was not utilized by the Ministry of Lands, Housing and Urban Development.

The Ministry has sought the intervention of the PSAS Board, National Treasury to have this unbudgeted expenditure taken into account through adjustment in the books of accounts for the financial year 2013/2014 of the two Ministries vide letter Ref. MPYG/ACCTs/7 of 10th May 2017.The PSAS Board advised the Ministry that the matter be handled by the old balances committee. Consequently, the Ministry wrote to the Principal Secretary, Ministry of Lands and Physical Planning requesting for the financial statements for financial year 2013/2014 for transmission to the committee vide letter Ref. No. MPYG/ACCT/7 dated 21st August 2017 (copy attached) and a reminder on 31st January 2018. The letter was responded to on 5th February 2018 seeking for clarification and was given on 12th February 2018.

Committee Observations and Findings

(i) **The Ministry of Planning and Development in 2013/2014 under Head – 103005300 Planning and Development – Headquarters, spent Kshs. 1,964,426,798 on transfers to other Government Units which had not been budgeted for;**

(ii) **The Ministry of Devolution and Planning together with the Ministry of Lands, Housing and Urban Development have since reconciled and confirmed that the budget for the expenditure incurred was not utilized by the Ministry of Lands, Housing and Urban Development. The Ministry has sought the intervention of the PSAS Board, National Treasury to have this unbudgeted expenditure taken into account through adjustment in the books of accounts for the financial year 2013/2014 of the two Ministries vide letter Ref. MPYG/ACCTs/7 of 10th May 2017; and**

(iii) **The PSAS Board advised the Ministry that the matter be handled by the old balances committee. Consequently, the Ministry wrote to the Principal Secretary, Ministry of Lands and Physical Planning requesting for the financial statements for financial year 2013/2014 for transmission to the committee vide letter Ref. No. MPYG/ACCT/7 dated 21st August 2017 (copy attached) and a reminder on 31st January 2018. The letter was**

responded to on 5th February 2018 seeking for clarification and was given on 12th February 2018.

Committee Recommendations

(i) **The matter is awaiting the finalization of the report by theTask Force appointed to clear old balances.**
(ii) **The Accounting Officer for the National Treasury should ensure that the Task force appointed to clear old balances concludes its work within the timelines as per reccomendation of PAC report on FY 2014/2015.**

110.2 Incomplete Construction Project

The Ministry in 2013/2014 financial year awarded a tender for construction of flats at National Youth Service Vocational Training Institute-Industrial Area at an estimated cost of Kshs.49,105,721. The contract between the Ministry and the contractor was signed on 22 February 2013 and was estimated to take 52 weeks from 08 April 2013 to 07 April 2014. The Contractor was paid Kshs.7,111,432 for certificate No.1. However, physical verification carried out on 17 February 2015 showed that the work was abandoned at foundation level. Information on site meetings or other management meetings were not provided for audit. This project therefore appears to have stalled.

Submission by Accounting Office

The Accounting Officer stated that it was true that the contract was awarded by MTC on 18th January, 2013 vide Minute No. 8/8/2012/2013. The contract was signed on 22nd February 2013 between the PS Ministry of Youth Affairs and Sports and the contractor at a sum of Kshs. 49,105,721.10.A site meeting was held on 20th September 2013 attended by the Project manager, National Youth Service officers and the contractor. During the site meeting it was noted that the contractor had completed foundation trenching and infilling at 100% and foundation walling and hardcore filling and ground slab casting. The general completion rate was put at 14% of the works and it was certified that the contractor thus be paid Kshs. 7,111,432.26 under the minute item 1:100 of the said meeting.

The Contractor abandoned the works and the contract was terminated vide letter Ref. No. No. MDP/1/3/41 dated 8/11/2013 to pave way for re-advertisement for a new contract.National Youth Service re-advertised for the construction on 8th April 2016. However, the tendering amounts were beyond the budget and hence no contract was entered into. The National Youth Service has however, ensured that an amount of Kshs. 50 million has been factored in thebudget for financial year 2017/2018 to facilitate completion of the project. The Ministry wrote to Ministry of Transport, Housing and Urban Development vide Ref. NO. NYS/PROJ/B/1/2/9(16) of 23rd August 2017 and a reminder Ref. No. NYS/PROJ/8/1/2/9 (18) of 18th December 2017 for validation of the earlier given estimate of Kshs. 57,652,303.80.

Committee Observations and Findings

(i) **The Ministry in the FY 2013/2014 awarded a tender for construction of flats at National Youth Service Vocational Training Institute-Industrial Area at an estimated cost of Kshs. 49,105,721. The contract between the Ministry and the contractor was signed on 22 February 2013 and was estimated to take 52 weeks from 08 April 2013 to 07 April 2014;**

(ii) **The contractor was paid Kshs. 7,111,432 for certificate No.1. However, physical verification carried out on 17 February 2015 showed that the work was abandoned at foundation level. Information on site meetings or other management meetings were not provided for audit;**

(iii) **The contractor abandoned the works and the contract was terminated vide letter Ref. No. No. MDP/1/3/41 dated 8/11/2013 to pave way for re-advertisement for a new contract. National Youth Service re-advertised for the construction on 8th April 2016. However, the tendering amounts were beyond the budget and hence no contract was entered into; and**

(iv) **The National Youth Service factored an amount of Kshs. 50 in the budget for the FY 2017/2018 to facilitate completion of the project. The Ministry wrote to Ministry of Transport, Housing and Urban Development vide Ref. NO. NYS/PROJ/B/1/2/9(16) of 23rd August 2017 and a reminder Ref. No. NYS/PROJ/8/1/2/9 (18) of 18th December 2017 for validation of the earlier given estimate of Kshs. 57,652,303.80.**

Committee Recommendations

(i) **The Accounting Officer during the period under review should be reprimanded for failure to provide for audit review all the information on the project site meetings or other management meetings contrary to the provisions of Section 9(1e) of the Public Audit Act, 2015 which gives the Auditor-General powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities pursuant to the provisions of section 74 of the PFM Act, 2012.**

(ii) **Within three (3) months upon adoption of this report, the Accounting Officer, submit to the Auditor-General for audit review, a report on the status of implementation of this project. Further, the accounting officer should avail for audit review all information on site meetings or other management meetings in line with Section 9(1e) of the Public Audit Act, 2015.**

110.3 Unconfirmed Transfer to Other Government Entities

The financial statements of the Ministry for the year 2014/15 reflected recurrent and development votes combined transfer to other Government entities balance of Kshs.2,871,368,369 which however was not budgeted for. This amount includes Kshs.2,151,010,210 reflected in the financial statements as transfers to the Ministry of Lands, Housing and Urban Development which, however have not been supported to date.

Submission by Accounting Officer

The Accounting Officer stated that it was true the financial statements of the Ministry of Devolution & Planning reflect recurrent and development combined transfer to other Government entities of Kshs. 2,871,368,369.00 which was not budgeted.

Certain functions were transferred from the Ministry of Devolution and Planning to the Ministry of Lands, Housing and Urban Development while the budget of those functions remained with Ministry of Devolution and Planning. The budget of these functions amounting to Kshs. 4,841,107,996.00 was moved in the supplementary budget 1 to Ministry of Lands, Housing and Urban Development for the financial year 2013/2014.

At the time this budget was moved, this Ministry of Devolution and Planning has already incurred expenditure amounting to Kshs. 2,151,010,210.00 on the Urban and Markets Development department. This amount consisted of Kshs. 1,964,426,798.00 in the Development vote and Kshs. 185,583,412.00 in the recurrent vote.

Subsequently these amounts were reconciled and agreed with the Ministry of Lands, Housing and Urban Development.

The Ministry of Devolution and Planning has sought the intervention of the PSAS Board, National Treasury to have this unbudgeted expenditure taken into account through adjustment in the books of accounts for the financial year 2013/2014 of the two Ministries vide letter Ref. MPYG/ACCTs/7 of 10th May 2017. (Appendix 1 (ii), (iii) & (iv).

The PSAS Board advised the Ministry that the matter be handled by the old balances committee. The ministry wrote to the Principal Secretary, Ministry of Lands and Physical Planning requesting for the financial statements for 2013/2014 for on transmission to old balances committee vide letter Ref. No. MPYG/ACCT/7 dated 21st August 2017 and a reminder on 31st January 2018 (copies attached). The letter was responded to on 5th February 2018 seeking for clarification and was given on 12th February 2018.

Committee Observations and Findings

(i) **The financial statements of the Ministry of Devolution & Planning reflect recurrent and development combined transfer to other Government entities of Kshs. 2,871,368,369.00 which was not budgeted; and**

(ii) **Certain functions were transferred from the Ministry of Devolution and Planning to the Ministry of Lands, Housing and Urban Development while the budget of those functions remained with Ministry of Devolution and Planning. The budget of these functions amounting to Kshs. 4,841,107,996.00 was moved in the supplementary**

budget 1 to Ministry of Lands, Housing and Urban Development for the financial year 2013/2014;

Committee Recommendation

(i) **The explanation by the Accounting Officer was satisfactory. Therefore, the matter is waiting the finalization of the report by the Task Force appointed to clear old balances.**

(ii) **Further, the accounting officer for the National Treasury should ensure that the Task force appointed to clear old balances concludes its work within the timelines as per reccomendation of PAC report on FY 2014/2015.**

110.4 Variance in Disbursements to Semi-Autonomous Government Agencies (SAGAS)

The statement of receipts and payments for the year ended 30 June 2015 reflected transfers to other Government Entities amounting to Kshs.36,783,950,688. However,differences between the amounts disbursed by the Ministry and the amounts received during the year under review by various SAGAS were noted as follows:

Entity	**Amount disbursed by Ministry (Kshs.)**	**Amount received by Entity Kshs.)**	**Under – Receipts (Kshs.)**
Anti FGM Board	38,783,380.00	28,987,486.20	9,795,893.00
National Youth Council	31,317,420.00	14,792,895.00	16,524,525.00
NEPAD Kenya Secretariat	297,082,173.00	220,155,401.00	76,926,772.00
President's Award Scheme	19,829,000.00	0	19,829,000.00
Uwezo Fund	390,000,000.00	342,500,000.00	47,500,000.00
Youth Enterprise Development Fund	329,824,800.00	233,538,800,00	96,286,000.00
Total	**1,106,836,773.00**	**839,974,582.20**	**266,862,190.00**

The Accounting Officer has not so far provided justifications for these irregularities. Consequently, it has not been possible to confirm the accuracy or validity of the payments totaling Kshs.36,873,950,688 made to Government entities included in the corresponding figures for 2014/2015 in the financial statements for 2015/2016.

Submission by Accounting Officer

The Accounting Officer stated that the response to this question was done and has been lifted from a book containing the response as it was made. A copy of the relevant copy of the book will be made available for audit review.

(i) Anti FGM Board

The approved budget in the 2014/2015 financial year was Kshs. 42,000,000.00. At the start of the FY 2014/2015. The Anti FGM Board was not fully operational i.e. it did not have a Bank Accounts so part of its expenditures were incurred at the Headquarters**.**

The Account was operational in the second quarter of the FY 2014/2015 thus bringing this discrepancy and the total expenditures was Kshs. 38,755,880.

(ii) National Youth Council

The NYC had approved budget of Kshs. 34,200,000.00. Most of its expenditures were also incurred at the Ministry Headquarter since the secretariat had no staffs seconded to carry out the financial management services work. The total expenditure incurred as at 30/06/2015 was Kshs. 31,035,420.00.

(iii) NEPAD Kenya Secretariat

The Secretariat had an approved budget of Kshs.105,165,000 on the Recurrent Vote which was disbursed to the secretariat. Part of the resources approved on the Development Vote was spent at the Ministry Headquarters on other priority activities related to NEPAD Kenya Secretariat work.

(iv) President's Award Scheme

Approved of Kshs. 20,000,000. The amount disbursed to the secretariat was Kshs. 19,829,000.00. This is evident from the G-Pay reports attached.

(v) Uwezo Fund

The Uwezo fund had an approved budget of Kshs. 190,000,000 in the recurrent vote and Kshs. 200,000,000 in the Development vote totaling to Kshs. 390,000,000. The board only received Kshs. 342,500,000 leaving a balance of Kshs. 47,500,000. This was erroneously disbursed to YEDF (Youth Enterprise Development Fund). The same has been recovered from the budgetary allocation to YEDF in the FY 2015/2016.

(vi)Youth Enterprise Development Fund (YEDF)

The YEDF had an approved Recurrent of Kshs. 224,488,800 and Development of Kshs. 105,336,000 totaling to Kshs. 329,824,800. After reconciliation with the YEDF, it was noted that it received an extra 47,500,000.00 which was to be disbursed to Uwezo Fund. The same has been recovered from the YEDF resource allocation in the FY 2015/2016

Committee Observations and Findings

Statement of receipts and payments for the year ended 30th June 2015 reflected transfers to other government entities (SAGAs) amounting to Kshs. 36,783,950,688. However, it was not possible for the auditors to confirm the accuracy or validity of the payments totaling Kshs.

36,873,950,688 made to SAGAs included in the corresponding figures for 2014/2015 in the financial statements for 2015/2016;

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. However, the Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

111. Trial Balance

The trial balance as at 30 June 2016 reflects balances against various account items which differ from corresponding balances reflected in the financial statements for the year then ended as follows:

	Financial statements	**Trial balance**	**Difference**
	Kshs.	**Kshs.**	**Kshs.**
Receipts			
Exchequer Releases	69,916,161,565	69,966,881,391	50,719,826
Proceeds from sale of assets	8,705,237	125,000	8,580,237
Expenses			
Basic salaries - Permanent employees	1,513,957,498	1,436,058,722	77,898,776
Basic salaries - Temporary employees	4,034,454,869	4,016,564,302	17,890,567
Personal allowances paid as part of salary	763,973,575	661,056,870	102,916,705
Utilities, supplies and services	229,699,694	220,785,527	8,914,167
Communication, supplies and services	99,271,637	98,488,129	783,508
Domestic travel and subsistence	170,755,846	170,203,403	552,443
Foreign travel and subsistence	87,044,269	87,061,269	(17,000)
Printing, advertising and information	47,336,480	47,302,063	34,417

Rentals of produced assets	818,334,054	817,764,523	569,531
Training expenses	674,352,487	670,035,272	4,317,215
Hospitality supplies and services	288,633,252	288,564,938	68,314
Specialized materials and services	2,864,977,237	2,842,693,800	22,283,437
Office and general supplies and services	226,048,511	225,316,822	3,731,689
Other operating expenses	572,084,767	569,369,339	2,715,428
Routine maintenance-Vehicles and other transport equipment	43,457,065	42,761,192	695,873
routine maintenance-Other assets	558,872,935	557,241,615	1,631,320
Fuel, oil and other lubricants	678,860,296	677,822,016	1,038,280

No explanation has been provided for these differences. Consequently, the accuracy of the financial statements is doubtful.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the State Department did not avail the Trial Balance to support the figures reflected in the Financial Statement.

The State Department has now provided a trial balance of financial year 2015/2016 with comparative figures of financial year 2014/2015 to support the figures in the financial statement.

Committee Observations and Findings

The State Department did not avail the trial balance to support the figures reflected in the financial statement; The State Department later provided a trial balance of financial year 2015/2016 with comparative figures of financial year 2014/2015 to support the figures in the financial statement.

Committee Recommendations

The Accounting Officer should avail the trial balance to support the figure reflected in the financial statements pursuant to section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

112. Variance in Disbursements to Semi-Autonomous Government Agencies (SAGAS)

The statement of receipts and payments for the year ended 30 June 2016 reflects an amount of Kshs.44,339,150,438 in respect of Other Grants and Transfers. The amounts reflected in the Ministry's records as disbursed to various government agencies, however, differ from the amounts shown in those agencies records as received as indicated below:

Entity	Amount disbursed by Ministry	Amount received by Entity	Difference
Kshs.	**Kshs.**		**Kshs.**
Mechanical and Transport Fund	67,000,000	17,000,000	50,000,000
Youth Enterprise Development Fund	530,893,970	483,393,970	47,500,000
NGO Coordination Board	185,831,875	185,925,625	(93,750)
Kenya National Bureau of Statistics	3,071,958,297	3,171,958,297	(100,000,000)
KSG	21,663,372	186,693,852	(165,030,480)
Nepad Kenya	183,999,305	199,687,200	(15,687,895)
Total	**4,061,346,819**	**4,244,658,944**	**(183,312,125)**

No reconciliation or explanation has been provided for the above differences.

Submission by Accounting Officer

The Accounting Officer stated that it was true included in the statement of receipts and payments Kshs. 44, 339,150,438.00 transfers to other Government Entities figure are difference between the amounts disbursed by the Ministry and the amounts received during the year under review by various SAGAs. The amounts disbursed by the State Department are shown against the respective disbursement dates and the total per SAGA/fund. Further during the inter entity reconciliation the following disbursements were agreed upon between the State Department and the SAGAs as indicated below:

a. Youth Enterprise Development Fund

Date of Disbursement	Amount (kshs)
23/07/2015	152,668,000.00
12/01/2016	76,334,000.00
12/01/2016	72,872,000.00
16/05/2016	61,941,370.00

16/05/2016	21,334,000.00
27/05/2016	98,224,400.00
Total	**483,393,770.00**

b. **NGO Coordination Board**

Date of disbursement	**Amount (Kshs.)**
14/07/2015	62,575,000.00
19/01/2016	31,287,500.00
19/01/2016	18,750,000.00
27/01/2016	37,687,500.00
06/05/2016	8,937,500.00
16/05/2016	26,594,375.00
Total	**185,831,875.00**

Note: The NGO Coordination Board stated that this was the amount they received from the State Department and an amount of Kshs. 93,750.00 was from some other sources.

c. **Kenya National Bureau of Statistics**

Date of Disbursement	**Amount Kshs.**
24/07/2015	881,166,648.00
02/02/2016	100,000,000.00
02/02/2016	425,000,000.00
04/02/2016	356,166,649.00
16/03/2016	554,250,000.00
08/06/2016	359,750,000.00
08/06/2016	395,625,000.00
08/06/2016	100,000,000.00
Total	**3,171,958,297.00**

d. NEPAD Kenya Secretariat

Date	Amount (Kshs.)
14/07/2015	52,582,500.00
27/07/2015	75,000,000.00
19/01/2016	26,291,250.00
16/05/2016	22,347,562.00
02/06/2016	7,777,993.60
27/06/2016	15,687,894.00
Total	**199,687,199.00**

e. Mechanical and Transport Fund

Date	Amount (Kshs)
03/06/2016	6,000,000.00
23/06/2016	11,000,000.00
Total	**17,000,000.00**

f. Kenya School of Government

The State Department did not disclose any grant to Kenya School of Government (KSG). This is because the budget of former GTIs now campus of KSG are still under itemized budget in the State Department of Public Service and Youth in their respective Heads and Sub-heads and not one line Grant item. It should be note that the staff of the former GTIs namely Mombasa, Matuga, Embu and Baringo were initially under the Ministry of State for Public Service.After the establishment of KSG which took over the GTIs it was necessary to transfer their payroll from the Ministry to Kenya School of Government. However, this required KSG to be declared a "public Service organization" by the Director of Pensions and Retirement Benefits Authority (RBA). This process had not been concluded until 25th January 2017.

The above therefore explains the reason why the Ministry has continued to pay the salaries of the former GTI staff to safeguard their pension and to issue AIEs for the operation and maintenance of GTIs (To be provided by the Ministry for Public Service, Youth and Gender Affairs).

Committee Observations and Findings

- **(i) The statement of receipts and payments for the year ended 30 June 2016 reflected an amount of Kshs.44,339,150,438 in respect of Other Grants and Transfers. The amounts reflected in the Ministry's records as disbursed to various government agencies, however, differed from the amounts shown in those agencies records; and**
- **(ii) The Accounting Officer explained the differences satisfactorily.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

113. Use of Goods and Services

The statement of receipts and payments and as disclosed in Note 6 to the financial statements, reflects an expenditure of Kshs.7,425,761,251 in respect of use of goods and services. The expenditure figure includes an amount of Kshs.657,784,722 paid purportedly to settle pending bills from the previous period, but whose validity could not be ascertained due to lack of supporting documents. Further, out of this balance payments totaling Kshs.235,470,728 did not have crucial supporting documents such as requisitions and or delivery notes. Consequently, the accuracy and validity of the use of goods and services figure of Kshs.7,425,761,251 cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments reported a figure of Kshs. 7,425,761,251.00 which included payments of Kshs. 657,784,722.00 paid during the year that were pending bills from previous periods, and whose validity could not be ascertained as there were no supporting documents for pending bills provided for audit review in the previous year. Also payments made totaling to Kshs. 6,635,470,728.00 did not have crucial supporting documents such as requisitions for the goods and services.

This State Department of Devolution and Planning would like to clarify that most of these payments made emanated from National Youth Service. Due to the urgent nature of work at NYS most of the goods were ordered by the headquarters for the various stations and units and hence the payment vouchers did not contain requisitions. It should however be noted that the Principal Secretary through Memo Ref. MPD/17/103 of 17th August 2015 directed the Directors and AIE holders to ensure all procurements followed the correct procedures and the Public Procurement and Disposal Act & Regulations. In effect it was expected that all new procurements should be preceded with a requisition note from the user department.

Further, the Principal Secretary formed a committee to scrutinize and verify all pending bills coming from NYS to ensure that only those claims that had all other supporting documents attached to the payment vouchers and where necessary physical verification of the goods received were done, are passed for payment.

Committee Observations and Findings

The statement of receipts and payments reported a figure of Kshs. 7,425,761,251.00 which included payments of Kshs. 657,784,722.00 paid during the year that were pending bills from previous periods, and whose validity could not be ascertained as there were no supporting documents for pending bills provided for audit review in the previous year. Also payments made totaling to Kshs. 6,635,470,728.00 did not have crucial supporting documents such as requisitions for the goods and services.

Committee Recommendations

- **(i) The Accounting Officer in office during the financial year under review failed to avail documents supporting payments totaling to Kshs. 6,635,470,728. Contrary to the provisions of Section 9(1e) of the Public Audit Act, which gives the Auditor-General powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities; and**
- **(ii) The DCI should within three (3) months of tabling and adoption of this report investigate the Accounting Officer in office during the financial year under review for payments made totaling to Kshs. 6,635,470,728.00 which did not have crucial supporting documents such as requisitions for the goods and services.**

114. Other Capital Grants and Transfers

As disclosed in Note 7 to the financial statements, the reported figure of other grants and transfers of Kshs.44,339,150,438 includes other capital grants and transfers amounting to Kshs. 2,791,485,440. However, an amount of Kshs.124,480,440 out of the total Kshs.2,791,485,440 has not been supported with the necessary documentation. As a result, the propriety of expenditure of Kshs.124,480,440 cannot be confirmed.

Submission by Accounting Officer

The payment vouchers are available and will be availed to the Auditor General for audit verification**.**

Committee Observations and Findings

The financial statements reported figure of other grants and transfers of Kshs. 44,339,150,438 included other capital grants and transfers amounting to Kshs. 2,791,485,440. However, an amount of Kshs. 124,480,440 out of the total Kshs. 2,791,485,440 has not been supported with the necessary documentation. As a result, the propriety of expenditure of Kshs. 124,480,440 cannot be confirmed.

Committee Recommendations

The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report issue a reprimand to the accounting officer in office during the financial year under review for failure to avail the necessary documents for amount of Kshs. 124,480,440 contrary to the provision of Section 9(1e) of the Public Audit Act, 2015 which gives the Auditor-General powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities

115. Acquisition of Assets

i. The statement of receipts and payments reflects, and as disclosed in Note 9 to the financial statements, expenditure totaling Kshs.6,084,045,536 on acquisition of non-financial assets. Out of this amount, details of expenditure totaling Kshs.2,792,941,671 have not been provided. Further, the remaining balance of Kshs.3,291,103,865 although detailed has not been supported with payment vouchers, invoices, contracts documents, requisition notes, procurement plan and a fixed asset register.

ii. Payment vouchers and supporting documents for amounts totaling Kshs.831,968,731.35 as detailed below were, reportedly seized by investigating agencies and were, therefore, not made available for audit review.

No.	Payee's Name	Pv. No.	Amount (Kshs.)	Department	Investigating Agenc	Date of Payment

					y	
1	Out of the Box Solutions Ltd	0185	90,737,607.00	NYS	EACC	14/8/2015
2	Blue Star	01609	45,137,931.05	NYS	DCI	22/9/2015
3	Fahaza Limited	01656	29,172,500.00	NYS	EACC	18/9/2015
4	Lukenya Earthmovers E.A. Limited	0995	118,263,452.30	NYS	EACC	22/9/2015
5	Greenberg Holding Ltd	1612	79,800,000.00	NYS	EACC	22/9/2015
6	Brandspark Supplies Limited	1522	19,000,000.00	NYS	EACC	22/9/2015
7	Dayton Investment Limited	01032	75,600,000.00	NYS	EACC	3/11/2015
8	Benchmark Holdings Ltd	00860	68,750,000.00	NYS	EACC & DCI	3/11/2015
9	Kenirie Ltd	01600	93,800,000.00	NYS	EACC	6/11/2015
10	Benchmark Holdings Ltd	00862	45,517,241.00	NYS	EACC & DCI	6/11/2015
11	Qsetters Investments	01018	3,750,000.00	NYS	EACC	6/11/2015
12	Qsetters Investments	00556	44,250,000.00	NYS	BFIU	16/11/2015
13	Horizon Limited	05924	10,440,000.00	NYS	BFIU	30/11/2015
14	Aenon Enterprises	0542	47,850,000.00	NYS	EACC	16/12/2015
15	Derby Techno Systems	00621	40,000,000.00	NYS	EACC	6/07/2015
16	Esaki Limited		1,900,000.00		EACC/DCI	
Total			**813,968,731.35**			

In view of the foregoing, the accuracy, validity and propriety of expenditure amounting to Kshs.6,084,045,535 shown in the financial statements under the acquisition of assets cannot be confirmed and it is doubtful that the government got value-for-money for the non-financial assets reported to have been procured.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of receipts and payments reflects, and as disclosed in Note 9 to the financial statements, expenditure totaling Kshs. 6,084,045,536. Further the details of expenditure totaling Kshs, 2,792,941,671 have not been supported and the balance of Kshs. 3,292,103,865 although detailed has not been supported. State department of Planning together with State Department for Public Service and Youth Affairs were to prepare asset registers for consolidation. The State department for Planning and the State Department for Public Service and Youth has prepared an asset register totaling Kshs. 4,578,969,010.35 and the portion National Youth Service will be provided in due course for consolidation. A copy of this register has been provided to the auditors for Audit review.

Payment vouchers and supporting documents for amounts totaling Kshs. 831,968,731.35 as detailed below were, reportedly seized by investigating agencies and were, therefore, not made available for audit review.

The accounting officer stated that it was true that payment vouchers and supporting documents for amounts totaling Kshs. 831,968,731.35 were seized by investigating agencies and were therefore not made available for audit review. The vouchers are still with investigating agencies.

The accounting officer stated that it was true that the accuracy, validity and propriety of expenditure amounting to Kshs. 6,084,045,535 cannot be confirmed. However, once the fixed asset register figure for Public Service and Youth Affairs is obtained the accuracy, validity and propriety of these expenditure will be confirmed.

Committee Observations and Findings

(i) **The statement of receipts and payments reflected an expenditure totaling Kshs. 6,084,045,536. Further the details of expenditure totaling Kshs, 2,792,941,671 were not supported and the balance of Kshs. 3,292,103,865 although detailed was also supported;**

(ii) **State department of Planning together with State Department for Public Service and Youth Affairs were to prepare asset registers for consolidation. The State department for Planning and the State Department for Public Service and Youth has prepared an asset register totaling Kshs. 4,578,969,010.35 and the portion of the National Youth has not been prepared; and**

(iii) **Payment vouchers and supporting documents for amounts totaling Kshs. 831,968,731.35 were, reportedly seized by investigating agencies and were, therefore, not made available for audit review. The vouchers are still with investigating agencies.**

Committee Recommendations

The Accounting Officer in office during the financial year under review should be reprimanded by the Cabinet Secretary for the National Treasury for failing to ensure that National Youth Service prepares & maintains a complete fixed asset register pursuant to

Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the Accounting Officer should within three (3) months of adoption of this report embark on preparing complete assets register which should be availed to the Auditor-General for audit review.

116. Cash-and-Cash Equivalents

(i) Recurrent Account

The bank balances of Kshs.335,864,797 as disclosed in Note 6 to the financial statements include an amount of Kshs.20,741 in respect of recurrent account. However, the bank reconciliation statement for the recurrent account as at 30 June 2016 reflects an amount of Kshs.18,281,681.85 as receipts in bank statements not in cashbook out of which Kshs.8,628,417 relates to the 2016/2017 financial year. The statement also reflects payments originated by the department that are in bank statement and not in cash book totaling Kshs.355,501,321.05. No explanation has been given for delay to update the cashbook. In addition, the reconciliation statement reflects payments in the cashbook not reflected in the bank statement amounting to Kshs.243,670,777 which include stale cheques and errors described as over/under cast in the cashbook all of which lack appropriate supporting documents. The reconciliation statement also reflects receipts without details amounting to Kshs.503,392.75. No reason has been given for the anomaly.

Submission by Accounting Officer

It was true that the issues raised and the bank reconciliation for recurrent account were noted and have now been adjusted. The current position is that the cash book balance and bank balance have been agreed. Therefore, there are no outstanding items. Copy of the bank reconciliation will be availed for audit review.

Committee Observations and Findings

- **(i) The bank balances of Kshs. 335,864,797 in the note to the financial statements included an amount of Kshs. 20,741 in respect of recurrent account. However, the bank reconciliation statement for the recurrent account as at 30 June 2016 reflects an amount of Kshs.18,281,681.85 as receipts in bank statements not in cashbook out of which Kshs.8,628,417 relates to the 2016/2017 financial year;**
- **(ii) The statement also reflected payments originated by the department that are in bank statement and not in cash book totaling Kshs. 355,501,321.05; and**
- **(iii) The current position is that the cash book balance and bank balance have been agreed. Therefore, there are no outstanding items.**
- **(iv) The bank reconciliation statement was subsequently availed for audit review.**
- **(v) The Committee marked the matter as resolved.**

(ii) Development Account

The bank balances of Kshs.335,864,797 also include an amount of Kshs.45,197,096 in respect of development vote account. However, the bank reconciliation statement for the development account as at 30 June 2016 reflects amounts totaling Kshs.14,616,295 as receipts in bank statements not in cashbook. The statement also reflects payments totaling Kshs.213,001,546 originated by the department that are reflected in the bank statement but not in the cash book.

The reconciliation statement also reflects payments in cashbook not reflected in the bank statement amounting to Kshs.7,545,235 which include stale cheques and errors described as over/under cast in the cashbook all of which lack appropriate supporting documents. Further, the reconciliation statement reflects receipts in the bank statement not in cashbook which include unexplained returned RTGS payments of Kshs.14,135,830. No reason has been given for delay in updating the cashbook.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the issues raised and the bank reconciliation for recurrent account were noted and have now been adjusted. The development position is that the cash book balance and bank balance have been agreed. Therefore, there are no outstanding items. Copy of the bank reconciliation will be availed for audit review.

Committee Observations and Findings

(i) **The bank balances of Kshs. 335,864,797 also included an amount of Kshs. 45,197,096 in respect of development vote account. However, the bank reconciliation statement for the development account as at 30th June 2016 reflected amounts totaling Kshs. 14,616,295 as receipts in bank statements not in cashbook. The statement also reflected payments totaling Kshs. 213,001,546 originated by the State Department that are reflected in the bank statement but not in the cash book; and**

(ii) **The reconciliation statement also reflected payments in cashbook not reflected in the bank statement amounting to Kshs. 7,545,235 which include stale cheques and errors described as over/under cast in the cashbook all of which lack appropriate supporting documents.**

(iii) **The Committee marked the matter as resolved.**

(iii) Deposits Account

The bank balance of Kshs.335,864,797 also includes an amount of Kshs.290,646,960 in respect of deposits account. However, the bank reconciliation statement for the deposit account as at 30 June 2016 reflects amounts totaling Kshs.1,374,200 as receipts in bank statements not in cashbook. No explanation has been given for delay to update the cashbook. The statement also reflects payments originated by the department in the cashbook not reflected in the bank statement amounting to Kshs.247,716,945 out of which Kshs.238,008,938 has been described as cashbook error that has no supporting documents. The statement also reflects receipts in cash book not in bank statement amounting to Kshs.243,110,796 described as overstatement in cashbook and have no supporting documents.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the issues raised and the bank reconciliation for recurrent account were noted and have now been adjusted. The deposit position is that the cash book balance and bank balance have been agreed. Therefore, there are no outstanding items.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory and the matter is resolved.

117. Outstanding Imprests

The financial statements as at 30 June 2016 and as disclosed under Note 12 to the financial statement reflects outstanding imprests totaling Kshs.26,341,506 all of which were overdue. No justification has been provided for failure by the officers to surrender the imprests or otherwise, recover the outstanding amounts from their salaries.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the State Department did not support imprests amounting to Kshs. 16,470,475.00. The amount relates to imprests issued to officers under State Department of Public Service and specifically NYS. The figure has now been supported as it was at 30th June 2016 and the status as at May 2018 balance of Kshs. 154,440 is outstanding and recovery letters have since been sent to Human Resource Division.(see appendix 5 i & ii)

In addition Kshs. 9,871,031 outstanding for State Department for Planning has also been surrendered 2016/2017 as per attached schedule.

Committee Observations and Findings

(i) The State Department did not support imprests amounting to Kshs. 16,470,475.00. The amount relates to imprests issued to officers under State Department of Public Service and specifically NYS; and

(ii) The figure has now been supported as it was at 30th June 2016 and the status as at May 2018 balance of Kshs. 154,440 is outstanding and recovery letters have since been sent to Human Resource Division.

Committee Recommendations

Within three months of the adoption of this report, the Accounting Officer should ensure that the outstanding balance of Kshs. 154,440 fully recovered.

118. Deposits and Retentions

The financial statements reflect, as disclosed in Note 13 to the statement, a balance of Kshs.290,646,960 against Accounts Payable-Deposits and Retentions. However, details in respect of the balance such as the payee, date payable and circumstances giving rise to the deposits and retentions have not been provided. As a result, the validity and accuracy of the balance of Kshs.290,646,960 cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the financial statements reflect as disclosed in Note 13 to the statement, a balance of Kshs. 290,646,960 against accounts payable-deposits and retentions. The figure of Kshs. 290,646,960 arose out of Circular from The National Treasury Ref. AG.17/01 Vol. 1/ (15) dated 10th August 2016 requesting Ministries to analyze deposit bank balances because of reorganization of government. This was to enable Treasury to open new deposit bank accounts into which the analyzed correct share of each State Department will be credited.

Committee Observations and Findings

The financial statements reflected a balance of Kshs. 290,646,960 against accounts payable-deposits and retentions. The figure of Kshs. 290,646,960 arose out of Circular from The National Treasury Ref. AG.17/01 Vol. 1/ (15) dated 10th August 2016 requesting Ministries to analyze deposit bank balances because of reorganization of government. This was to enable Treasury to open new deposit bank accounts into which the analyzed correct share of each State Department will be credited.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

119. Pending Bills

Records maintained by the State Department of Planning indicates that, and as further disclosed in Note 15.1 to the financial statements, bills totaling Kshs.2,505,894,057 were not settled during the year 2015/2016 but were instead carried forward to 2016/2017. The management, however, did not provide details of the pending bills such as payee names, invoice numbers, date, nature of goods supplied/services offered and amounts due. Had the bills been paid and the expenditure charged to the account for 2015/2016, the statement of receipts and payments for the year then ended would have reflected a deficit of Kshs.628,303,147 instead of a surplus of Kshs.1,877,590,910 now shown. Failure to settle bills during the year to which they relate distorts the financial statements for that year and adversely affects the provisions for subsequent year to which they have to be charged.

Submission by Accounting Officer

Its true records maintained by the State Department of Planning indicated that, and as further disclosed in Note 15.1 to the financial statements, bills totaling Kshs. 2,505,894,057 were not settled during the year 2015/2016 but were instead carried forward to 2016/2017. Due to reorganization of Government in 2016/2017, the pending bills for 2015/2016 were shared between the three new state departments. These were State Department for Planning and Statistics, State Department for Gender and State Department for Public Service and Youth.

The State Department for Planning and Statistic's share out of the Kshs. 2,505,894,057 was Kshs. 11,498,520. Out of this amount, Kshs. 8,087,447 was settled during the 2016/2017 financial year and the balance of Kshs. 3,411,073 in 2017/2018 financial year**.**

State Department for Public Service and Youth

Most of these pending bills were for NYS and as you are aware there were many firms transacting with NYS that were put under investigations by the investigating agencies i.e. EACC, BFIU/CID and KRA on suspicion of fraudulent payments. It therefore required the NYS and the State Department for planning as it were to strictly scrutinize the payment vouchers before making payments. To ensure that only genuine claims were paid, the State Department formed a verification committee that scrutinized the payment vouchers and passed for payments only those that were found to be properly supported. The verification process took time and therefore not all the Payment vouchers that had been processed reached the payment point by the closure of the financial year. The above unpaid pending bills totaling Kshs.2,505,894,057.00 have now been paid within this financial year by the State Department for Public Service and Youth which is a successor of the former State Department for Planning.

Committee Observations and Findings

- **(i) State Department of Planning incurred bills totaling Kshs. 2,505,894,057 were not settled during the year 2015/2016 but were instead carried forward to 2016/2017. Due to reorganization of Government in the FY 2016/2017, the pending bills for 2015/2016 were shared between the three new state departments. These were State Department for Planning and Statistics, State Department for Gender and State Department for Public Service and Youth;**
- **(ii) The State Department for Planning and Statistic's shared out of the Kshs. 2,505,894,057 was Kshs. 11,498,520. Out of this amount, Kshs. 8,087,447 was settled during the 2016/2017 financial year and the balance of Kshs. 3,411,073 in 2017/2018 financial year; and**
- **(iii) The unpaid pending bills totaling Kshs. 2,505,894,057.00 have now been paid within this financial year by the State Department for Public Service and Youth which is a successor of the former State Department for Planning.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

120. Suspense

The statement of assets as at 30 June 2016 reflects a suspense account debit balance of Kshs.69,711,658. The origin and composition of the suspense account has not been supported or explained satisfactorily. In addition, the statement of cash flows includes unexplained prior year suspense balances and unreconciled balances totaling Kshs.69,711,658, which have not been supported in any way. Consequently, the validity and accuracy of these suspense balances cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of asset as at 30th June 2016 reflects a suspense account debit balance of Kshs. 69,711,658.00 and cash flow statement includes unexplained prior year suspense balance of the same amount. This was district suspense in respect of AIEs sent out to stations outside Nairobi. The expenditure data was later received and captured accordingly.

Committee Observations and Findings

The statement of asset as at 30th June 2016 reflected a suspense account debit balance of Kshs. 69,711,658.00 and cash flow statement included unexplained prior year suspense balance of the same amount. This was district suspense in respect of AIEs sent out to stations outside Nairobi. The expenditure data was later received and captured accordingly.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore. the matter is resolved.

121. Director-General National Youth Service Payments

There were numerous cash transfers during the year under review from the State Department of Planning to Director General National Youth Service as reflected in the bank reconciliation statements. The payments were for Kshs.835,200, Kshs.10,494,810 and Kshs.7,421,939 under recurrent, development and deposit accounts respectively, making a total of Kshs.18,751,949 that remained outstanding as at 30 June 2016. However, the transactions origin and paid for in respect of these transfers have not been disclosed in the financial statements. In addition, any balance as at 30 June 2016 in respect of the transfers to Director General - National Youth Service has not been included in the financial statements.

Submission by Accounting Officer

The Accounting Officer stated that it was true that there were cash transfers during the year under review form the State Department for Planning to Director General National Youth Service as reflected in the bank reconciliation statements. These were transfers relating to standing imprest reimbursements made to the National Youth Service bank account.

Committee Observations and Findings

There were cash transfers during the year under review form the State Department for Planning to Director General National Youth Service as reflected in the bank reconciliation statements.

Committee Recommendations

The Accounting Officer should, within three (3) months upon adoption of this report, submit to the Auditor-General for audit review, a report on the status of implementation of this project. Further, the Accounting Officer should avail for audit review all information on site meetings or other management meetings in line with Section 9(1e) of the Public Audit Act, 2015.

122. Affirmative Action Social Development Fund

The certificate of bank balances as at 30^{th}June 2016 from Central Bank of Kenya reflects a balance of Kshs.2,313,420,402 under the State Department of Planning in an account named Affirmative Action Social Development Fund. However, no financial statements in respect of the Fund have been prepared and submitted for audit nor has the amount been disclosed in the financial statements. In addition, documentation in respect of formation and operation of the Fund has not been provided for audit.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the certificate of bank balances as at 30th June 2016 from Central bank of Kenya reflects a balance of Kshs. 2,313,420,402.40 under the state department of Planning in an account named Affirmative Action Social Development Fund. The financial statements for the fund were eventually prepared and forwarded to the auditors together with the Kenya Gazette supplement No. 39 dated 1st April 2016 supporting the legal formation and operation of the fund.

Committee Observations and Findings

(i) **The certificate of bank balances as at 30th June 2016 from Central bank of Kenya reflects a balance of Kshs. 2,313,420,402.40 under the state department of Planning in an account named Affirmative Action Social Development Fund; and**
(ii) **The financial statements for the fund were eventually prepared and forwarded to the auditors together with the Kenya Gazette supplement No. 39 dated 1st April 2016 supporting the legal formation and operation of the fund.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

123. Budget and Budgetary Controls

Significant variances between the final approved budget and actual receipts/payments have been observed in respect of the following items:

Item	Budget	Actual	Variance	% Variance
Kshs	Kshs		Kshs	
Receipts	74,188,616,339	70,350,861,910	3,837,754,429	5%
				Expenses
Compensation of employees	11,041,763,129	10,601,957,202	439,805,927	4%
Use of Goods and Services	9,643,643,984	7,432,719,882	2,209,577,317	13%
Other Grants and Transfers	45,063,020,739	44,339,150,438	723,870,301	2%
Social security benefits	4,612,500	3,022,091	1,590,409	34%
Acquisition of Assets	8,399,768,576	6,096,445,535	2,303,323,041	26%
Total	**74,152,808,928**	**68,473,295,148**	**5,678,166,995**	

Submission by Accounting Officer

The accounting officer stated that it was true that there were significant variances between the final approved budget and actual receipts/payments. The following are the reasons for those variances:

ITEM	Actual	Budget	Variance	% variance	Reason
Receipts	74,188,616,339	70,350,861,910	3,837,754,349	5	The 5% variance is due to some donors not honoring their commitments on funding.
Compensation to employees	10,601,957,202	11,041,763,129	439,805,927	96	The 4% under-absorption is in relation to the development vote. For the donor funded projects the returns in relation to contractual employees had not been submitted and they therefore were not captured and uploaded in the system Delay in development exchequer releases in

					relation to payment of casual labour (NYS cohorts)
Use of goods	7,432,719,882	9,643,643,984	2,209,577,317	77	Closure of the commitments under the procurements module and delay in exchequer releases
Other Grants	44,339,150,438	45,063,020,739	723,870,301	98.4	These grants that were not disbursed related to the development partners because of various reasons among them difference in calendar and financial year and lengthy procurements procedures
Social Security Benefit	3,022,091	4,612,500	1,590,409	65.52	This was the actual amount paid to the outgoing Ps.
Acquisition of assets	6,096,445,535	8,399,768,576	2,303,041	75.58	Closure of the commitments under the procurements module and delay in exchequer releases

Committee Observations and Findings

There were significant variances between the final approved budget and actual receipts/payments which was occasioned by various reasons including donors not honoring their commitments on funding, delays in development exchequer releases in relation to payment of casual labour (NYS cohorts), and closure of the commitments under the procurements module and delay in exchequer releases.

Committee Recommendation

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

124. Audit Committee and Internal Audit

Although the State Department had an Audit Committee in place, there was no documentation to show the activity of the Committee during the year under review. Further, no work plans or reports were provided in support of the operations of the Internal Audit Unit for the year under review.

Submission by Accounting Officer

The State Department for Planning had an audit committee which was operational. Copies of the Committee meetings during the financial year are attached for verification

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved. However, the Accounting Officer should ensure that there is a work plan supporting the operation of the Internal Audit unit.

7.2. STATE DEPARTMENT FOR DEVOLUTION

FINANCIAL STATEMENTS FOR VOTE 1032

Mr. Nelson Marwa, the Accounting Officer for Vote 1032, State Department for Devolution appeared before the Committee on 13th July 2018 to adduce evidence on the audited Financial Statements of Vote 1032 State Department for Devolution for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.He wasaccompanied by the following Officials:

1. **Mr. Kennedy Okeyo - Chief Finance Officer;**
2. **Mr. James Mwanzi – Director, Policy and Research;**
3. **Mr. Patrick Ojwang - Principal Internal Auditor;**
4. **Ms. Jane Kirop - Chief Accountant;**
5. **Mr. Moses Macharia - Senior Accountant;**
6. **Mr. Maurice Ogolla - Deputy Director, Policy and Research;**
7. **Mr. Jackson Owuor - Finance Officer;**
8. **Ms. Anne N. Mwangi - Legal Officer;**
9. **Mr. Salim Kuti - Assistant Accountant General;**
10. **Mr. Johnson Ndwiga - Supply Chain Management Officer I;**
11. **Ms. Alice Mwaniki - Assistant Accountant General –**
12. **Mr. Lucy W. Kamau - Assistant Accountant General**

Basis for Disclaimer of Opinion

125. Pending Bills

The State Department of Devolution reported pending bills amounting to Kshs.2,939,375,585 as at 30 June 2016, comprising of Kshs.20,543,261 for supply of goods and services and bills brought forward from 2014/2015 of Kshs.105,000,000 for land acquired by the former Ministry of Local Government from Kenya Railways for construction of Muthurwa market and Kshs.2,813,832,324 for contribution in lieu of rates (CILOR) for the former local authorities. Had the pending bills been paid and the expenditure charged to the accounts for 2015/2016, the statement of receipts and payments would have reflected an excess vote (deficit) of Kshs. 2,716,822,188 instead of the surplus of Kshs. 222,553,397 now shown. Failure to settle bills during the year to which they relate distorts the financial statements for the year and adversely affects the provisions of the subsequent year to which they have to be charged.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the State Department for Devolution had pending bills amounting to **Ksh. 2,939, 375,585** analyzed as follows;

1. CILOR (Contribution in Lieu of Rates) Kshs 2,813,832,324

These were debts owed to the defunct Local authorities by the Central Government in relation to Government properties which were in the jurisdiction of the defunct local authorities. The National Government was unable to pay due to budget constraints over the years. This led to the accrual and high interests to the figures indicated. In the new dispensation, the Transition Authority were mandated to audit and verify the assets and liabilities of the Defunct Local authorities a task that was not completed during the transition period. This was later taken over by the Inter-Governmental Relations Technical Committee, an exercise which is still ongoing vide gazette notice No. 4370. Once the exercise is complete, IGRTC will determine the amounts payable. As such the Pending Bills relating to CILOR could not be settled

2. Kenya Railways-Construction Muthurwa Market Kshs. 105,000,000

The bills were inherited from the defunct Ministry of Local Government but have not been cleared due to budgetary constraints. Requests to the National Treasury for budgetary allocation to defray the bills have, however been unsuccessful in the past. This matter has now been presented to Departmental Committee on Finance and Planning of the National Assembly during our 2018/19 FY budget presentation which has recommended clearance of the bills

3. Other pending bills relating to 2015/16 FY for supply of goods and services. Kshs 20,543,261

The pending bills were cleared in the 2016/17 Financial Year.

Measures taken to address the Pending Bills

Going forward, the State Department has planned to clear the bills by: Establishing County Asset and Liability Committees through gazette notice No. 4370 to verify the assets and liabilities of the defunct local authorities and thus determine the authenticity of the CILORs. The Accounting Officer has appointed County Assets and liabilities committee members that have already embarked on the exercise. The Department is also seeking budgetary support from the National Treasury through special requests and the Medium Expenditure framework (MTEF).

Committee Observations and Findings

(i) **The State Department of Devolution reported pending bills amounting to Kshs. 2,939,375,585 as at 30 June 2016; and**

(ii) **The pending bills comprise of Kshs.20,543,261 for supply of goods and services and bills brought forward from 2014/2015 of Kshs.105,000,000 for land acquired by the former Ministry of Local Government from Kenya Railways for construction of Muthurwa market and Kshs.2,813,832,324 for contribution in lieu of rates (CILOR) for the former local authorities**

Committee Recommendations

Accounting Officer should ensure that all pending bills are verified and cleared within the stipulated measures that the State Department has put in place.

126. Outstanding Imprests

As disclosed under Note 9 to the financial statements imprests totaling Kshs. 1,322,566.00 were outstanding as at 30th June 2016. Imprest amounting to Kshs. 203,200.00 out of the total had been issued to employees who have since left the service of the department. Further, all the imprests were outstanding for over three months as of 30th June 2016. No explanation has, however, been provided for failure by the management to compel staff to surrender these imprests, or recover the same from their salaries**.**

Submission by Accounting Officer

The Accounting Officer stated that it was true that the outstanding Imprests as at 30th June 2016 amounted to Kshs 1,322,566.00 as per attached. Out of this amount, imprests totaling Kshs1,203,366.00 were surrendered in the financial year 2016/17 leaving the balance of Kshs 203,200.00 Kshs 84,500 of the balance has since been recovered. The State Department is following up on the remaining Kshs 118,700.00 after finally learning that the officer is currently stationed in Police Department.

Committee Observations and Findings

- **(i) The outstanding Imprests as at 30th June 2016 amounted to Kshs. 1,322,566 out of which amount, imprests totaling Kshs1,203,366 were surrendered in the FY 2016/17 leaving the balance of Kshs 203,200 Kshs out of which 84,500 of the balance has since been recovered.**
- **(ii) The State Department is following up on the outstanding imprest Kshs. 118,700 after finally learning that the officer is currently stationed in Police Department.**

Committee Recommendations

Accounting Officers must at all times ensure that they adhere to the regime regulating issuance and recovery of imprest pursuant to the provisions of Regulation 93 of the Public Finance Management Regulations, 2015.

127. Cash-and-Cash-Equivalents

(i) Recurrent bank account

The bank balance of Kshs. 404,785,628 and as disclosed in Note 8A includes a balance of Kshs. 41,305,367 in respect of recurrent account. However, the bank reconciliation statement for the account as at 30 June 2016 reflects long outstanding unexplained receipts and payments totaling Kshs. 53,425,898 and Kshs. 34,699,287 respectively in the bank statements but not reflected in the cash book. In addition, the reconciliation statement reflects payments in cash book amounting to

Kshs. 2,973,177 not reflected in the bank statement and which were outstanding for over twelve months as of 30 June 2016.

Submission by Accounting Officer

The accounting officer stated that it was true that the bank balance for recurrent bank account was Kshs. 41,305,367 and the same had been restated to Kshs 100,979,190.25. This was brought about by adjustments in the cash book which included an exchequer issue of Kshs. 253 Million which had not been reflected in the bank as of 30thJune 2016 and Kshs 33,750 being surrender of unspent AIE that had initially been omitted. The other adjustments were reversals of expenditures of cash book payments that never went through as at the end of the financial year, including reconciling items and direct credits.

Committee Observations and Findings

The bank balance of Kshs. 404,785,628 included a balance of Kshs. 41,305,367 in respect of recurrent account. However, the bank reconciliation statement for the account as at 30 June 2016 reflected long outstanding unexplained receipts and payments totaling Kshs. 53,425,898 and Kshs. 34,699,287 respectively in the bank statements but not reflected in the cash book.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

(ii) Development Bank Account

The bank balance of Kshs. 404,785,628 as disclosed in Note 8A includes a balance of Kshs. 280,589,590 under the development account. However, the corresponding bank reconciliation statement reflects a cash book balance of Kshs. 201,169,589 resulting in unexplained variance of Kshs.79, 420,000.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the bank balance for development stood at Kshs. 280,589,590. This has since been restated to Kshs. 78,544,792.00**.** The adjustments made included corrections of two exchequers; Kshs 70,153,855 and Kshs 135,000,000 totaling to Kshs 205,153,855 which had erroneously been receipted twice in the cash book. An exchequer of Kshs 80,000,000had not been posted in the cash book, and a further Kshs 3,109,058.00being a surrender of unspent balance to the exchequer from the MTAP project that had not been captured in the cashbook.

Committee Observations and Findings

The bank balance of Kshs. 404,785,628 included a balance of Kshs. 280,589,590 under the development account. However, the corresponding bank reconciliation statement reflect a cash book balance of Kshs. 201,169,589 resulting in unexplained variance of Kshs.79, 420,000.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

(iii) Unexplained Reconciling Items

The bank reconciliation statements for recurrent, development and deposits accounts as at 30 June 2016 reflect several unexplained processing errors described as cash book overcast or cash book under cast which have remained unresolved for a long period of time. As at 30 June 2016, the cumulative amounts for these errors were as follows:

Description	**Amount Kshs.**
Receipts in cash books not on statement	2,000,000
Payments in cash books not on bank statement	9,732,514
Payments on bank statement not on cash book	2,181,282

No satisfactory explanation has been provided for non-resolution of these erroneous entries in the accounting records.

Submission by Accounting Officer

The Accounting Officer stated that the reconciling items were all adjusted in the cash book.

Committee Observations and Findings

The bank reconciliation statements for recurrent, development and deposits accounts as at 30 June 2016 reflect several unexplained processing errors described as cash book overcast or cash book under cast which have remained unresolved for a long period of time.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act

2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

(iv)Failure to Provide Records

Cash book extracts and Board of Survey report in respect of bank balances and cash in hand of Kshs.404,785,628 and Kshs.736,358 disclosed under Notes 8A and 8B respectively were not provided for audit review. As a result, it has not been possible to confirm the completeness and accuracy of cash-and-cash equivalent balances totaling Kshs. 405,521,986 reflected in the financial statements.

Submission by Accounting Officer

The accounting officer stated that the above figures have since been restated to Kshs 262,414,654 and Kshs 736,358.00 respectively.

Committee Observations and Findings

Cash book extracts and Board of Survey report in respect of bank balances and cash in hand of Kshs.404,785,628 and Kshs.736,358 were not provided for audit review.

Committee Recommendations

The Cabinet Secretary for the National Treasury should, within three (3) months of adoption of this report, reprimand the Accounting Officer for failure to provide for audit files for death gratuities under their custody contrary to the provisions of Section 9(1e) which gives the Auditor-Genial powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities.

128. Proceeds from Domestic and Foreign Grants

i. The State Department of Devolution provided an Appropriation-in-Aid (AIA) schedule claimed to have been extracted from the cash books showing that an amount of Kshs. 3,653,572,100 was collected compared to Kshs. 3,484,968,076 under proceeds from domestic and foreign grants reported in the financial statements for the year ended 30 June 2016. The resulting difference of Kshs. 168,040,024 between the two sets of records has not been explained. Further, it is not clear how the excess appropriation-in-aid of Kshs.8,113,320, being the difference between the final budget(Kshs.3,555,458,780) and the amount collected (Kshs.3,563,572,100) was accounted for.

Submission by Accounting Officer

The accounting officer stated that during the financial year ended 30th June 2016, National Drought Management Authority received the following excess Appropriations in Aid (AIA) from the following donors:

- DFID-UK supporting Kenya Hunger Safety Net Programme collected Kshs 84,169,465 over and above the approved estimates of Kshs 2,906,000,000;
- EDF/EEC-supporting KRDP-ASAL Drought Contingency Fund amounting to Kshs 26,212,365 over and above the approved budget of Kshs 280,987,850; and

Appropriation-In-Aid for Kenya Rural Development programme Kshs 58,222,194 which was not budgeted for in FY2015/16 creating over collection of AIA amounting to Kshs 168,604,024.

Committee Observations and Findings

The State Department of Devolution provided an Appropriation-in-Aid (AIA) schedule showing that an amount of Kshs. 3,653,572,100 was collected compared to Kshs. 3,484,968,076 under proceeds from domestic and foreign grants reported in the financial statements for the year ended 30 June 2016. The resulting difference of Kshs. 168,040,024 was not explained at the time of audit.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

ii. Proceeds from domestic and foreign grants comparative figure of Kshs.3,080,163,297 for year ended 30 June 2015 reflected in the statement of receipts and payments differs from the corresponding amount of Kshs.3,080,073,387 reflected under Note 1 to the financial statements. No explanation has been provided for this anomaly.

Submission by Accounting Officer

The Accounting Officer stated that it was true that our proceeds from domestic and foreign grants comparative figure had difference of Kshs. 89,910during the financial year ended 30th June 2016, this anomaly was noted and adjusted.

Committee Observations and Findings

Proceeds from domestic and foreign grants comparative figure of Kshs.3,080,163,297 for year ended 30 June 2015 reflected in the statement of receipts and payments differed from the corresponding amount of Kshs.3,080,073,387 reflected under Note 1 to the financial statements.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act

2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

129. Current Grants to other Government Agencies – (Street Families)

The statement of receipts and payments reflects under transfers to other government units, and as disclosed in Note 5 to the financial statements, a payment in respect of current grants and other government agencies-street families - amounting to Kshs. 230,000,000. The amount was claimed to have been transferred to the special programmes department. However, no expenditure returns have been provided in respect of the amount for audit review. As a result, the propriety of the expenditure cannot be confirmed**.**

Submission by Accounting Officer

The Accounting Officer stated that it was true that Kshs 230,000,000 under current grants and other agencies(street families) was given as a grant to the street families' agency under the special programs department in the ministry of devolution and planning. The amount was transferred to the Street Families Rehabilitation Trust Fund (SFRTF) towards the end of the financial year (28thJune 2016) and the Street Families Rehabilitation Trust Fund (SFRTF) confirmed the same.

Committee Observations and Findings

The statement of receipts and payments reflects under transfers to other government units, a payment in respect of current grants and other government agencies-street families - amounting to Kshs. 230,000,000. The amount was transferred to the Street Families Rehabilitation Trust Fund (SFRTF) towards the end of the financial year (28thJune 2016)

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

130. Other Grants and Transfers

(i) Emergency relief and refugee assistance

The statement of receipts and payments reflects under other grants and transfers, and as reported in Note 6 to financial statements, emergency relief and refugee assistance expenditure of Kshs. 2,001,933,736. The expenditure includes payments totaling Kshs. 36,250,000 for 5000 bags of rice supplied by Unifresh Exotic Kenya Limited and BN Kotecha at a cost of Kshs. 7,250 per 50kg bag. The expenditure further includes payments totaling Kshs. 21,942,000 for 4,140 bags of rice supplied by Jambo Grocers and Pabari Distributors Limited at a cost of Kshs. 5,300 per 50kg bag. However, according to the framework contract provided for audit review, the firms were expected to supply a 50kg bag of rice at a price of Kshs. 4,450. No explanation has been provided for disparity in the pricing between the two sets of suppliers and the change of the contract price from Kshs. 4,450 to Kshs. 7,250 per 50kg bag of rice. The difference apparently resulted in unquantified overpayments to the suppliers vendors who supplied the commodity at higher prices.

Submission by Accounting Officer

The Accounting Officer stated that it was true that there was discrepancy in the pricing between two sets of suppliers i.e. M/s Unifresh Exotic Kenya Limited and M/s B.N. Kotecha VS M/s Jambo Grocers and M/s Pabari Distributions Limited who supplied at a cost of Kshs. 7,250and Kshs. 5,300 respectively.

It was worth noting that M/s Unifresh exotic Kenya Limited and M/s B.N. Kotecha were contracted to supply the item in question for a period of five (5) years with effect from 15th December, 2009 to 15th December, 2014 at a cost of Kshs.4, 450per 50kg bag.

However, during 2011/2012 Financial Year the price was varied from Kshs. 4,450 to Kshs.7,250 per 50 kg bag vide Minutes of Tender Committee meeting No. 02/2011-2012 held on 22nd July, 2011. The two suppliers i.e. Unifresh Exotic Ltd and B.N. Kotecha continued to supply the item i.e. rice at a cost of Kshs.7,250 per 50kg bag for the remaining contract period, and after several contract extensions upon expiry.

With regards to M/S Jambo Grocers and M/S Pabari Distributors Contracts, I wish to confirm that those were purely new tenders that came into place in 2015/2016 Financial Year, where the two suppliers among others were contracted to supply rice at a cost of Kshs. 5,300per 50 kg bag.

The two sets of supplies i.e. M/s Unifresh Exotics Ltd and B.N. Kotecha VS M/S Jambo Grocers and M/s Pabari Distributors were contracted to supply rice under two different contracts and at different prices of Kshs. 4,450 (which was varied to Kshs. 7,250) and Kshs. 5,300 respectively**.**

Committee Observations and Findings

- **(i) There was discrepancy in the pricing between two sets of suppliers i.e. M/s Unifresh Exotic Kenya Limited and M/s B.N. Kotecha VS M/s Jambo Grocers and M/s Pabari Distributions Limited who supplied at a cost of Kshs.7,250and Kshs.5,300 respectively;**
- **(ii) M/s Unifresh exotic Kenya Limited and M/s B.N. Kotecha were contracted to supply the item in question for a period of five (5) years with effect from 15th December, 2009 to 15th December, 2014 at a cost of Kshs.4, 450per 50kg bag;**
- **(iii)During 2011/2012 Financial Year the price was varied from Kshs. 4,450 to Kshs. 7,250 per 50 kg bag vide Minutes of Tender Committee meeting No. 02/2011-2012 held on 22nd July, 2011. The two suppliers continued to supply the items at a cost of Kshs. 7,250 per 50kg bag for the remaining contract period, and after several contract extensions upon expiry; and**

(iv) **M/S Jambo Grocers and M/S Pabari Distributors Contracts were purely new tenders that came into place in 2015/2016 Financial Year, where the two suppliers among others were contracted to supply rice at a cost of Kshs. 5,300per 50 kg bag.**

Committee Recommendations

The EACC and DCI should, within three (3) months upon adoption of this report, investigate the entire procurement process of the contract for provision of emergency relief and refugee assistance programme particularly the two sets of supplies i.e. M/s Unifresh Exotics Ltd and B.N. Kotecha VS M/S Jambo Grocers and M/s Pabari Distributors who were contracted to supply rice under two different contracts and at different prices of Kshs. 4,450 which was varied to Kshs. 7,250 and Kshs. 5,300 respectively

(ii) Other Capital Grants and Transfers

The disclosure made under on Note 6 to financial statements includes an amount of Kshs. 1,794,578,543 in respect of other capital grants and transfers paid to various implementing agencies. However, returns of expenditure from the implementing agencies have not been provided for audit review. Consequently, the propriety of the expenditure of Kshs. 1,794,578,543 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that by the time of submission of the Financial Statements to the office of the Auditor General the State Department of Devolution had not received expenditure returns from the implementing agency, (NDMA). It is worth noting that NDMA received a total of Kshs 3,484,968,076 as AIA during the financial year under review. Out of this, the expenditure returns amounting to Kshs 1,690,389,533 had been confirmed and accounted for, leaving a balance of Kshs. 1,794,578,543. These amounts had been established to be direct transfers and grants from donors in form of AIAs during emergencies.

Committee Observations and Findings

The NDMA received a total of Kshs 3,484,968,076 as AIA during the financial year under review. Out of this, the expenditure returns amounting to Kshs 1,690,389,533 had been confirmed and accounted for, leaving a balance of Kshs. 1,794,578,543. These amounts had been established to be direct transfers and grants from donors in form of AIAs during emergencies.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

131. Budget and Budgetary Control

The state department did not adhere to the approved budget on some expenditure items during the year under review as reflected in the summary statements of appropriations-recurrent, development and combined. As a result, material variances have been noted between the final budget and actual receipts/expenditure as follows:

Revenue/ Expenditure Item	Budget Kshs.	Actual Kshs.	Variance Kshs.	Variance %
Other Receipts	11,616,744	-	(11,616,744)	(100)
Compensation to Employees	768,159,077	276,569,499	(491,589,578)	(64)
Use of Goods and Services	879,193,758	426,676,308	(452,517,450)	(51)
Transfers to Other Government Units	7,726,331,438	6,166,680,124	(1,559,651,014)	(20)
Other Grants and Transfers	1,882,566,717	3,796,534,079	1,913,967,362	102
Social Security Benefits	134,000,000	-	(134,000,000)	(100)
Acquisition of Assets	575,384,094	7,385,682	(567,998,412)	(99)

No satisfactory explanation has been provided for these variances or for failure to regularize the same in the supplementary budget.

Submission by Accounting Officer

The Accounting Officer stated that the Financial Statements were restated as follows:

Revenue/Expenditure Item	Budget Kshs.	Actual Kshs. As audited	Actual as Restated	Variance Kshs.	Variance%
Other Receipts	11,616,744	-		(11,616,744)	(100)
Compensation to Employees	768,159,077	276,569,499	276,569,499	(491,589,578)	(64)
Use of Goods and Services	879,193,758	426,676,308	548,876,759	(452,517,450)	(51)
Transfers to Other Government Units	7,726,331,438	6,166,680,124	6,186,850,946	(1,559,651,014)	(20)
Other Grants and	1,882,566,717	3,796,534,079	3,796,534,079	1,913,967,362	102

Revenue/Expenditure Item	Budget Kshs.	Actual Kshs. As audited	Actual as Restated	Variance Kshs.	Variance%
Transfers					
Social Security Benefits	134,000,000	-		(134,000,000)	(100)
Acquisition of Assets	575,384,094	7,385,682	7,385,682	(567,998,412)	(99)

It was noted that there were material variances in the Acquisition of Non-Financial Assets, Social Security Benefits, Transfers to Other Government Units, Compensation to Employees.

This was brought about by National Drought Management Authority (NDMA) receiving funds in the form of Appropriation in Aid (AIA) from other sources other than the allocation from the State Department as such there were variances between the budget and actual expenditure. As at the time preparation of Financial Statement the over-collection of the AIA had not been regularized in the budget, therefore resulting to the over-expenditures.

The state Department has instituted measures to address the low utilization as follows

i. Closely monitor capital projects performance by instituting a robust monitoring and evaluation team, which will among other duties include monitoring financial and non-financial indicators.
ii. Continuously review absorption of allocated funds for planned activities and seeking National Treasury approval to adjust budgetary provisions from time to time;
iii. Ensure continuity in key financial management areas for institutional memory, enhance capacity of financial management team on reporting to support preparation of financial statements and continuously review their performance;
iv. Complying with the National Treasury recommendation of clearance of pending bills as first charge.

Committee Observations and Findings

(i) There were material variances in the Acquisition of Non-Financial Assets, Social Security Benefits, Transfers to Other Government Units, Compensation to Employees. This was brought about by National Drought Management Authority (NDMA) receiving funds in the form of Appropriation in Aid (AIA) from other sources other than the allocation from the State Department as such there were variances between the budget and actual expenditure.

Committee Recommendations

(i) The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

132. Unexplained and Unsupported Adjustments

Following the submission of initial financial statements on 30 September 2016, several adjustments were processed under various accounts resulting in submission of revised final statements on 12 May 2017 as summarized below:

Account	Balance as Per Initial Financial Statements Kshs.	Balance as Per Final Financial Statements Kshs.	Unsupported Net Adjustments Kshs.
Proceeds from Domestic and Foreign Grants	2,470,305,010	3,484,968,076	1,014,663,066
Employee Compensation	626,632,941	276,569,499	350,063,442
Use of Goods and Services	588,127,942	426,676,308	161,451,634
Transfer to other Government entities	6,307,070,962	6,166,680,424	140,390,538
Other Grants and Transfers	1,604,309,546	3,796,534,079	(2,192,224,533)
Social Security benefits	80,155,852	-	80,155,852
Acquisition of Assets	452,885,682	7,385,682	445,500,000

These net adjustments have, however, not been supported with necessary documentation. As a consequence, the completeness and accuracy of the financial statements as at 30 June 2016 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that:

Proceeds from Domestic and Foreign Grants

i. During the review of the Financial Statements for F/Y 2015/16, it was established that amounts from proceeds from domestic and foreign grants (A.I,A) for NDMA (National Drought and Management Authority) had been erroneously been omitted in total summation because by 30th September 2016 the NDMA returns had not been received and accounted for in the books of accounts of the State Department of Devolution, thus the increase of Kshs. 1,014,663,066 as shown in the table below:-
The returns have since been received.

Proceeds from Domestic and Foreign Grants	2,470,305,010	3,484,968,076	1,014,663,066

Employee Compensation

i. The adjustments that were made under compensation of employees in the F/Y 2015/16 was necessitated by fact that there was an error in classification of Basic wages in the Financial Statement of F/Y 2015/2016. In the budget of Headquarters for F/Y 2015/16, Basic wages of Kshs. 350,063,442 payable to Western Kenya Flood Mitigation program was budgeted under line item in the ministry headquarters instead as a transfer to the project. The error in the presentation of the Financial Statement has since been corrected.

Employee Compensation	626,632,941	276,569,499	350,063,442

Use of Goods and Services

i. Use of goods and services under various line items for Western Kenya Community Driven Development and Flood Mitigation had been budgeted for under headquarters. Due to this an error was made in the presentation of the Financial Statement for F/Y 2015/16 as it was both accounted and presented in the expenditure lines of the Project and the headquarters by the figure shown below. The error has since been corrected in the presentation of the Financial Statements of F/Y 2015/16.

Use of Goods and Services	588,127,942	426,676,308	161,451,634

Transfer to Other Government Entities

i. It is true that changes were made on the reported figure under Transfer to Other Government Entities from an earlier reported amount of Kshs. 6,307,070,962 to a corrected amount of Kshs. 6,166,680,424. The difference of Kshs. 140,390,538 represents GOK exchequer receipts that was erroneously included in exchequer transfers to the agencies/project and has since been corrected.

Transfer to Other Government Entities	6,307,070,962	6,166,680,424	140,390,538

Acquisition of Assets

i. The adjustments that were made under Acquisition of Assets in the F/Y 2015/16 was necessitated by fact that there was an error in presentation of Acquisition of Assets in the Financial Statement of F/Y 2015/2016. In the budget of Headquarters for F/Y 2015/16, Acquisition of Assets was totaling Kshs. 575,384,094. This budget was inclusive of both the Headquarters and the Projects final estimate.

During the F/Y 2015/16, actual Acquisition of Assets for Western Kenya C .D.D & Flood Mitigation project was Kshs. 455,500,000 and for Headquarters was Kshs. 7,385,682. The error in the presentation of the Financial Statement has since been corrected as reflected below.

Acquisition of Assets	452,885,682	7,385,682	445,500,000

Subsequently during the restatement of the Financial Statement, several adjustments were made as shown below:

Account	**Balance as per Final Financial Statements Kshs.**	**Balance as per the restated Financial Statements**	**Net Adjustments**
Proceeds from Domestic and Foreign Grants	3,484,968,076	3,484,968,076	-
Employee Compensation	276,569,499	276,569,499	-
Use of Goods and Services	426,676,308	548,876,759	122,200,451
Transfer to Other Government Entities	6,166,680,424	6,186,850,946	20,170,522
Other Grants and Transfers	3,796,534,079	3,796,534,079	-
Social Security Benefits	-	-	-
Acquisition of Assets	7,385,682	7,385,682	-

Committee Observations and Findings

(i) Following the submission of initial financial statements on 30 September 2016, several adjustments were processed under various accounts resulting in submission of revised final statements on 12 May 2017. These net adjustments were, however, not supported with necessary documentation.

Committee Recommendations

(i) The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions

of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

133. Trial Balance

The financial statements have not been supported by a trial balance. Consequently, it is not possible to confirm the reliability of the accounting records used in preparation of these financial statements.

Submission by Accounting Officer

The Accounting Officer stated that it was true that during the submission of the Financial Statements the trial balance had erroneously been omitted among the documents.

Committee Observations and Findings

The financial statements were not supported by a trial balance.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

134. Summary Statement of Provisioning's

The summary statement of provisioning reflects General Account on Vote (GAV) and exchequer provisioning of nil and Kshs. 1,167,128,248 balances respectively. No records and documents have, however, been provided in support of the balances. As a result, accuracy cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer states that it was true that the Financial Statements had shown a figure of Kshs 1,167,128,248 as a balance for exchequer provisioning.

This can be tabulated as follows:

Development	5,629,067,259
Recurrent	2,769,492,301
Totals	**8,398,559,560**
Exchequer	
Development	4,763,131,312
Recurrent	2,648,300,000
Totals	**7,411,431,312**

The under provisioning was therefore Kshs 987,128,248giving a difference of Kshs. 180,000,000 which was a result of Kshs 80,000,000 received in the following financial year and an overcast of a Kshs 100,000,000 in the initial submission of the Financial Statements. The financial statements were however restated as per the revised reporting template.

Committee Observations and Findings

The summary statement of provisioning reflects General Account on Vote (GAV) and exchequer provisioning of nil and Kshs. 1,167,128,248 balances respectively. No records and documents were provided in support of the balances.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

NATIONAL HUMANITARIAN FUND

Basis for Qualified Opinion

135. Imprest and Advances

As disclosed in note 5B to the financial statements, the imprest and advances figure of Kshs.129,893,050 as at 30 June 2016 represent Authority to Incur Expenditure (AIEs) amounts issued to County Commissioners of Mandera, Nakuru, Baringo, Turkana and Bomet that had not been accounted as required by Government Financial Regulations. In addition, the advance to County Commissioner Mandera of Kshs. 68,960,000 has not been supported with documentation including a list of duly approved internally displaced persons to be compensated. Consequently, it was not possible to confirm the validity of the imprest and advances balance of Kshs. 129,893,050 as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer stated that it was true that our Financial Statement for the year ended 30th June 2015/2016 contain a figure of Kshs. 129,893,050.00 un- surrendered under imprest and advances.

This amounts relates to A.I.Es issued to various County Commissioners to support rehabilitation of various community installation affected by internal displacement as well as assist resettlement of affected persons as approved by the National Consultative Coordination Committee on IDPS.

The NCCC Financial Statements for the financial year 2016/17 shows outstanding advances of Kshs. 71,960,000.00 arrived at as follows:

No	Item	Kshs	Kshs
	Total AIEs Issued		129,893,050.00
	Less: Amount surrendered by C.C Baringo on 23/3/2017	45,120,477.00	
	Less: Amount spent by C.C Baringo as per expenditure Return presented	11,456,573.00	
	Less: Amount spent by C.C. Turkana as per expenditure Return presented	1,356,000.00	
	Total Surrendered		
	Balance		
			57,933,050.00
			71,960,000.00

Committee Observations and Findings

(i) **The financial statement for the year ended 30th June 2015/2016 contained a figure of Kshs. 129,893,050.00 un- surrendered under imprest and advances. The amounts related to A.I.Es issued to various County Commissioners to support rehabilitation of various community installation affected by internal displacement as well as assist resettlement of affected persons as approved by the National Consultative Coordination Committee on IDPS.**

Committee Recommendations

(i) **The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012**

136. Bank balances

The statement of financial assets and liabilities reflects a bank balance of Kshs.419,349,713 which includes stale cheques totaling Kshs.147,000 and unsupported payments in the bank statement not included in the cashbook of Kshs.988,571 that have remained unresolved for over one year. Under the circumstances, the accuracy of the bank balance of Kshs. 419,349,713 as at 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the amount of Kshs 147,000.00 was for payments relating to the following officers NCCC

Name	**Amount in Kshs**
Noah Oketch	60,000.00
Adan Wachu	7,000.00
Adan Wachu	80,000.00
Total	**147,000.00**

These were payments erroneously posted in the National Consultative Coordination Committee on IDPs (NCCC) cash book instead of the Ministry's recurrent cashbook. The anomaly was rectified as evidenced in the photocopy of the cash book attached. The unsupported payments in the bank statement not included in the cashbook were Kshs. 788,571.00 and not Kshs 988,571.00 and it was composed of the following.

No	**Item**	**Amount Kshs**
1	TRFS (Tax) for Adan Wachu	104,571.30
2	TRFS (Tax) for Adan Wachu	264,000.00
3	ZanakaComm Ltd	420,000.00
	Total	**788,571.30**

Committee Observations and Findings

The statement of financial assets and liabilities reflects a bank balance of Kshs.419,349,713 which includes stale cheques totaling Kshs.147,000 and unsupported payments in the bank statement not included in the cashbook of Kshs.988,571 that have remained unresolved for over one year.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

NATIONAL YOUTH SERVICE MECHANICAL AND TRANSPORT FUND

Basis for Disclaimer of Opinion

137. Non-Current Assets

i. As similarly reported in 2014/2015, the statement of financial position as at 30 June 2016 total non-current assets' balance of Kshs.6,263,076,866.57 includes an amount of Kshs.3,983,580,251 relating to plant and heavy machinery. The Fund has not valued the plant and heavy machinery for financial reporting purpose since inception. Further, although the non-current assets movement schedule under Note 3 and the statement of financial position reflects a net book value of Kshs.6,263,076,867, the computed figure using appropriate rates is Kshs.6,366,028,631.52. The resulting variance of Kshs. 102,951,765 has not been analyzed or explained.

ii. The accumulated depreciation brought forward as at 1 July 2015 of Kshs.1,573,260,295 includes adjustments of Kshs.7,041,799 in respect of commercial trucks and Kshs.3,662,814 relating to plant and heavy machinery. However, no supporting documentation has been provided for these adjustments. In addition, the depreciation charge for the year according to computed movement schedule is Kshs. 502,298,622 while Note 3 to the financial statements reflects a balance of Kshs. 500,376,893 resulting in a variance of Kshs.1,921,730. Under the circumstances, the accuracy of non-current assets balance of Kshs. 6,263,076,867 as at 30 June 2016 cannot be confirmed.

138. Domestic Debts

As disclosed under Note 4(a) to the financial statements, domestic debts include a balance brought forward totaling Kshs. 350,117,962. The balance includes unsupported Director-General National Youth Service debt of Kshs. 18,380,963 in respect of financial year 2013/2014 and an amount of Kshs. 124,600,000 borrowed from the Fund's Account at Kenya Commercial Bank Moi Avenue by the Ministry of Devolution and Planning in the same financial year. Information available indicates that there was no documented policy or authority to borrow from the Fund. The debt for the year 2015/2016 was Kshs. 99,304,504 thus resulting in a cumulative total of Kshs. 449,422,466. During the year under review, the Director-General paid-off Kshs. 149,918,976 leaving a balance of Kshs.299,503,490. No justification has been provided for non-settlement of the outstanding balance of Kshs.299,503,490 as at 30 June 2016.

139. Commercial Debts

The statement of financial position reflects under current assets commercial debts totaling Kshs. 438,787,842 made up of Tana Road Project debt of Kshs.424,987,103 and other debts of Kshs.13,800,611. No provision for impairment has, however, been made against the long outstanding debts. In addition, it has not been explained how other debts totaling to Kshs.

13,800,611 previously omitted from the financial statements have been accounted for in the records. Under the circumstances, the accuracy of the financial statements cannot be confirmed.

140. Cash and Bank

The statement of financial position also reflects cash and bank balance of Kshs.515,211,372 as at 30 June 2016. However, the related bank reconciliation statement and supporting schedules show various unexplained reconciling items. These include receipts in the bank statement that have not been captured in the cashbook amounting to Kshs.6,260,881 and cash receipts in the cashbook not in the bank statement amounting to Kshs.526,930. No satisfactory reason has been provided for failure to investigate and clear or record these items as appropriate.

141. Sundry Creditors

The sundry creditor's balance of Kshs. 8,579,223 as at 30 June 2016 includes an unanalyzed and unsupported brought forward balance of Kshs. 918,241.30 that has remained in the books of the Mechanical Transport Fund for a long time. In the circumstance, the accuracy and validity of the creditors balance of Kshs. 8,579,223 cannot be ascertained.

142. Fund Balance

The fund balance of Kshs. 8,080,040,165 as at 30 June 2016 comprises of various adjustments passed in previous years and in the current year all of which have not been supported to date:

Year ended	**Amount Kshs.**	**Description**
30 June 2014	39,807,204	Prior year adjustment error
30 June 2015	26,860,669	Prior year adjustment error
30 June 2016	6,951,553	Prior year adjustment error
30 June 2016	136,013,262	Changes in Net Book Value

The balance for prior-year adjustment error in year ended 30 June 2016 is net of several adjustments that have not been supported with any documentary evidence.

Further, a sum of Kshs. 17,000,000 reflected as Seed Capital Income under Note 2(e) to the financial statements is not included as part of the movement of the Fund balance during the year ended 30 June 2016. Under the circumstances, the accuracy and completeness of the Fund balance of Kshs. 8,080,040,165 as at 30 June 2016 cannot be confirmed.

143. Accuracy of Financial Statements

(i) Unexplained Adjustments

The financial statements at Note 3 reflect an unexplained credit adjustment of Kshs. 14,656,304 to the cost of commercial trucks amounting to Kshs.3,157,476,410 brought forward from the previous year. The adjustment has no corresponding entry in the financial statements and is not supported with any documentation.

(ii) Unrecorded Invoices

The recorded commercial debtors under Note 5(b) to the financial statements exclude billing for Bura Tana amounting to Kshs. 6,950,575. No explanation has been provided for the omission.

(iii) Statement of Cash flow

The statement of cash flows includes an unexplained balance amounting to Kshs.47,310,811 described as Increase/Decrease in difference. In addition, the comparative balance amounting to Kshs. 27,040,289 has not been explained. In view of the foregoing matters, the accuracy of the financial statements is doubtful.

WOMEN ENTERPRISE FUND

Basis for Qualified Opinion

144. Board Expenses

The board expenses of Kshs.7,040,166 for the year ended 30 June 2016 include an amount of Kshs.1,340,000 paid to board members as sitting allowance when undertaking routine operational roles of approving loans. Further, the board members did not have a calendar for meetings and held eleven (11) full board meetings and twenty eight (28) committee meetings during the financial year 2015/2016 contrary to Section 8 of State Corporation Act Cap 446 which recommends four meetings and a minimum of three for every financial year.

145. Receivables from Exchange Transactions

i. The receivables from exchange transactions' balance of Kshs.2,106,444,731 includes amounts of Kshs.3,100,000 and Kshs.6,300,000 receivable from Kwanza Constituency and Kisumu County respectively that were fraudulently appropriated by employees during the year under review. No provision has been made, however, in the financial statements in respect of the loss.
ii. The receivables from exchange transactions balance of Kshs.2,106,444,731 also includes non-performing loans from financial intermediary partners totaling Kshs.88,000,000. Any provision that would have been necessary in relation to this uncertainty has not been incorporated in the financial statements.

146. Gratuity Fund

The Fund operates a gratuity fund that is fully funded on a monthly basis by payments made by management to the fund at a rate of 31% of the basic pay. The gratuity fund is operated outside the accounting records of the entity and other than monthly transfers to the fund, all other transactions in respect of the gratuity fund could not be ascertained. In addition, the adequacy of the balance held in this fund disclosed as Kshs.25,251,035 under Note 2(j) to the financial statements could not be confirmed because the corresponding liability has not been disclosed.

147. LPO Loan Financing

The LPO Loans/financing receivables reflected under Note 21 to the financial statements totaling Kshs.5,302,714 includes an amount of Kshs.1,355,000 in respect of clients that have had no movement for over seven months. The non-recovery of the short term financing within the stipulated period has not been explained.

148. Bank Balance

Bank reconciliation statement as at 30 June 2016 for the Fund's Kenya Commercial Bank Limited, Moi Avenue Branch, loan disbursement account reflects payments amounting to Kshs.2,126,500 that have not been captured in the cash book. No explanation has been provided for delay in capturing these transactions in the cash book.

Other Matter

149. Financial Performance

During the year, the Fund's financial performance continued to deteriorate as it made a loss of Kshs.97,050,501(2014/2015 - Kshs.80,429,401) which reduced its accumulated fund surplus from Kshs.617,324,522 as at 30 June 2015 to Kshs.520,274,021 as at 30 June 2016. The management has indicated that it is lobbying the National Treasury to get more money to meet the Fund's operations which has not been addressed to date.

NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND BOARD

Basis for Qualified Opinion

150. Cash and Cash Equivalents

150.1 Prior Year Issues

i. As reported in the previous year, the statementof financial position as at 30 June 2015 reflected cash and cash equivalents balance of Kshs.1,196,506,453 which included balances of Kshs.413,706,195 and Kshs.39,997,556 held in Cooperative and Kenya Commercial Banks, respectively. It was reported further that a net amount of Kshs.28,896,501 arising from the reconciliation of the cashbook and bank statements had not been adjusted in the accounting records, as of 30 June 2015 as detailed below:

Bank Particulars Amount

KCB Receipts in bank not in cash book	(5,498,518)
KCB Payments in bank not in cash book	34,314,751
Co-operative Payments in bank not in cash book	80,268
Total	**28,896,501**

Consequently, the bank balances had been overstated by Kshs.28,896,501. The matter, however, remained unresolved during the year under review.

150.2 Current Year Issues

i. The cash and cash equivalents balance of Kshs.1,898,987,630 reflected in the statement of financial position as at 30 June 2016 and disclosed under Note 12(a) to the financial statements includes an amount of Kshs.21,250,955 in respect of KCB Economic Stimulus Programme account. Information available indicates that the account was omitted from the previous year's financial statements. In addition, no opening balance statement was provided in support of this bank account and a payment of Kshs.3,206,700 reflected in the bank statement on 31 August 2015 has not been included in the financial statements for 2015/2016.

ii. The cash and cash equivalents also includes an amount of Kshs.49,016,316 in respect of Kenya Commercial Bank account whose bank reconciliation statement reflects an amount of Kshs.32,585,558 as payments in bank statement not in cashbook. The amount has been outstanding for over three years as it relates to monies fraudulently withdrawn from the Board's bank account and has not yet been recovered to date.

iii. The cash and cash equivalents also includes an amount of Kshs.332,537,617 as at 30 June 2016 held at Chase Bank as investment. However, Chase Bank was placed under statutory management by the Central Bank of Kenya on 7 April 2016 and realisability of this amount is contingent upon reverting of the bank to its normal operations.

Consequently, it has not been possible to confirm the accuracy and validity of cash and cash equivalents balance of Kshs. 1,898,987,630.

151. Prior Year Adjustment

The statement of financial position as at 30 June 2016 and the statement of cash flows and the statement of changes in net assets for the year then ended include a prior year adjustment of Kshs.21,250,955 which appears not to have been disclosed and accounted for in accordance with International PublicSector Accounting Standards No.3 (IPSAS 3), paragraph 49. According to the IPSAS, changes in accounting estimates and errors are to be accounted through restatement in the financial year the error first occurred or in the earlier comparative information in the financial statements if it is impractical to restate in the year the error occurred.

152. Trade and other payables

As reported similarly in the 2014/2015 financial year under current liabilities, trade and other payables balance of Kshs.78,962,352 as at 30 June 2016 includes accrued Economic Stimulus Programme allowances of Kshs.14,917,200 brought forward from 2012/2013 and earlier financial years. As explained by management in the previous year, these allowances are owed to the Stimulus Project Management Committees (SPMCs) and Constituency Project Tender Committees

(CPTCs) which were operating under Economic Stimulus Programme (ESP). The amount has been outstanding in the books of accounts for long after the Economic Stimulus Programme ceased to exist. The amount has so far not been analysed or supported with documentation. The validity and accuracy of the amount cannot under the circumstances be ascertained.

DONOR FUNDED PROJECTS

COMESA STATISTICAL CAPACITY BUILDING PROJECT PZ1-K00-044 GRANT NO.2100155022166 - KENYA NATIONAL BUREAU OF STATISTICS

Basis for Qualified Opinion

153. Non Compliance with International Public Sector Accounting Standards (Cash Basis)

The financial statements for the year do not include the statement of comparison of budget and actual amounts hence does not comply with International Public Sector Accounting Standards (Cash Basis).

154. Unauthorized Expenditure

The statement of receipts and payment reflects payments totaling Kshs.7,768 for the year ended 30 June 2016. However, the grant period for the project as per the protocol agreement ended on 30 June 2014. Management has not availed documents in support for any Project extension. Consequently, the validity of the Project expenditure of the Kshs.7,768 made after the closure of the Project could not be ascertained.

155. Cash at Bank

The unutilized funds at the bank totaling Kshs.761,725 as at 30 June 2016 have not been refunded to the donor subsequent to the closure of the Project in the financial year ended 30 June 2014.

COMMUNITY EMPOWERMENT AND INSTITUTIONAL SUPPORT PROJECT (CEISP) P-KE-IZO-001 - MINISTRY OF DEVOLUTION AND PLANNING

Basis for Adverse Opinion

156. Inaccuracies in the financial statements

i. The following figures as reflected in the financial statements differ with the detailed supporting schedules as detailed below;

Account Name	**Balance per financial statement** Kshs.	**Balance per supporting schedule Kshs.**	**Variance Kshs.**
Compensation of Employees	33,391,690	35,070,320	1,678,630

Direct Payments	39,299,968	92,578,981	53,219,013
Transfer from National Treasury	22,130,678	20,960,286	1,170,392
Other Expenses	1,562,000	1,162,000	400,000
Construction of building	22,152,505	48,762,907	26,610,402

ii. The statement of financial assets and liabilities as 30 June 2016 reflects financial assets total of Kshs.370,625 against a negative net financial position of Kshs.1,949,681 a position that casts doubt on the accuracy of accounting records and these financial statements.

iii. The proceeds from foreign borrowing as reflected under note 8.3 totaling Kshs.64,151,383 exclude direct payments amounting to Kshs.53,219,013 thereby understating both receipts and payments for the year under review.

iv. The statement of receipts and payments includes a row of accumulated cash balances brought forward totaling Kshs.127,682,784 that has distorted the cumulative surplus figure of Kshs.160,622,972. The inclusion of this is a non-compliance with IPSAS cash basis accounting.

Under the circumstances, the accuracy of the financial statements for the year ended 30 June 2016 cannot be confirmed.

157. Cash book balances

The statement of financial assets and liabilities as at 30 June 2016 reflects a cash book bank balance of Kshs.370,625 that differs with the net financial position figure of negative Kshs.1,949,682 resulting in an unexplained difference of Kshs.2,320,307. The project did not prepare monthly bank reconciliation statements for the whole year and hence it was not possible to ascertain whether all bank transactions and bank balances during the year under audit were fairly stated.

158. Accumulated Surplus balance

The statement of receipts and payments for the year ended 30 June 2016 reflects cumulative receipts from National Treasury of Kshs.179,563,093 and Kshs.1,458,617,014 proceeds from foreign borrowing totaling Kshs.1,638,100,107 and payments of Kshs.1,605,239,917 resulting in a cumulative surplus of Kshs.32,940,188. This surplus differs with the statements cumulative surplus figure of Kshs. 1,605,239,919 by an unexplained difference of Kshs.127,682,784. Under the circumstances, the accuracy of the deficit figure of Kshs.1,949,681 for the year ended 30 June 2016 cannot be confirmed.

159. Stolen Vehicle – GKA 661Y

As previously reported, a motor vehicle registration No. GKA 661Y (white) Isuzu D Max valued at Kshs.1,611,200.00 was stolen on 8 April 2013 through violent robbery. However, the Ministry has not provided progress report on the loss of the motor vehicle.

160. Unsupported Payments

Included in the use of goods and services expenditure figure of Kshs.93,815,184 are payments totaling Kshs.13,918,606 and Kshs.17,296,766 to the Government of Kenya and Africa Development Bank funding's respectively, that are not supported with documentary evidence and information. Also, under the acquisition of assets figure of Kshs.48,357,741, amounts of Kshs.25,624,436 and Kshs.508,800 described as research and furniture respectively are not supported with documentations.

The project management has not provided justification for these payments hence, the propriety of Kshs.57,420,608 expenditure charged to public funds could not be confirmed.

CO-ORDINATION OF POPULATION POLICY IMPLEMENTATION PROJECT (UNFPA CREDIT NO. KEN 7P11A) – NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this Project.

Committee Observation

The Co-ordination of Population Policy Implementation Project (UNFPA CREDIT NO. KEN 7P11A) – National Council for Population and Development received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendation

The Committee commends the Project Team for Co-ordination of Population Policy Implementation Project (UNFPA CREDIT NO. KEN 7P11A) – National Council For Population and Development for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

DATA COLLECTION AND DATA BASE DEVELOPMENT PROJECT – UNFPA NO.KEN 7P32A – KENYA NATIONAL BUREAU OF STATISTICS

Basis for Qualified Opinion

161. Statement of Comparative Budget and Actual Amounts

Although the financial statements contain a statement of comparative budget against actual amounts, the management did not provide details of the budget and work plan to support the financial year 2015/2016 figures. Consequently, it was not possible to verify the accuracy of the statement of budget against actual amounts as reflected in the financial statements for the financial year ended 30 June 2016.

KENINFO DATA BASE PROJECT (UNICEF) – KENYA NATIONAL BUREAU OF STATISTICS

Basis for Qualified Opinion

162. Bank Balance

The Project activities ended on 30 June 2014 but the management continued to operate the bank account which had a balance of Kshs.63,898 and accumulated bank charges amounting to Kshs.3,960 as at 30 June 2016. No documentation in support of the authority to continue operating the bank account after closure of the Project was availed for audit examination. Consequently, the validity of the expenditure for the year amounting Kshs.3,960 could not be confirmed.

KENYA YOUTH EMPOWERMENT PROJECT (KYEP) – COMPONENT 3 (IDA CREDIT NO.4697-KE) – MINISTRY OF DEVOLUTION AND PLANNING

Basis for Qualified Opinion

163. Exchange Loss on Closure of the Project

The project closed on 30 June 2016 with a cash balance of Kshs.42,873,702 which was disbursed by the donor to the project in US dollars in the financial year 2012 and credited into the account in Kenya Shillings based on an exchange rate of Kshs.84.63. Although the exchange rate has been changing during the years, it is apparent that the realized exchange losses have not been factored in the accounting records of the Project considering that the refund has to be done in US dollars using the rate ruling at that date. The refund of the Kshs.42,873,702 which was equivalent to US dollars 496,819.43 at the point of disbursement will occasion a loss of approximately Kshs.7,354,742 at the mean rate of 101.1 as at 30 June 2016. The Project management has not provided evidence on how this imminent loss shall be accommodated or funded.

164. Non Inclusion of Loan Component of the Project Amounting to US$17,027,000 in the Financial Statements

Kenya Youth Empowerment Project has two components namely the grant component with a funding of US$1,410,000 and the loan component with a funding of US$17,027,000. The financing agreement however places the onus of auditing the loan component amounting to US$17,027,000 to be executed by a private auditor appointed by the donor partners and report directly to them. This has effectively left the Auditor General to audit and report on the grant component amounting to US$1,410,000. These financial statements excludes the amount of US$17,027,000 loan grant and it is therefore not possible to confirm whether public money in form of the loan to the Republic of Kenya amounting to US$17,027,000 has been applied lawfully and in an effective way as required by Article 229(6) of the Constitution.

MEDIUM TERM ASAL PROGRAMME (NATURAL RESOURCE MANAGEMENT PROGRAMME) - DANIDA NO.104.KEN.806-20-NBO - MINISTRY OF DEVOLUTION AND PLANNING

Basis for Qualified Opinion

165. Bank balance

The bank balance of Kshs.52,089,891 as at 30 June 2016 and as disclosed under note 7.7A to the accounts includes a balance of Kshs.44,074,299 - Danida Revenue Funds, an overdraft of Kshs.3,072,874 GOK funds and Kshs.11,088,467 - Danida A-in-A account all held at the Central Bank of Kenya. However, the bank reconciliation for the account balances at Central Bank totaling Kshs. 41,001,424 reflects a cash book balance of Kshs. 33,326,174 resulting in unexplained differences of Kshs. 7,675,250. Further, the overdrawn GOK funds bank account of Kshs. 3,072,874 is not represented by an existing project bank.

In the circumstance, it is not possible to ascertain whether all bank transactions and bank balances during the year under audit were fairly stated.

Submission by Accounting Officer

The Accounting Officer stated that it was true that closing CBK MTAP ASAL had a balance of Kshs 41,001,424.15 while the reconciliation statement had a balance of Kshs 33,376,174 resulting in an unexplained difference of Kshs 7,675,250.

This difference was brought about by an amount of Kshs 8,841,037.30 paid in the development account on behalf of the MTAP- ASAL.A reconciliation was done to agree these two sets of figures. Subsequently the meeting on 9th December 2016 between the PS State Department of Devolution, the Danish Embassy Officials and the Auditors resolved that these amounts be refunded back by the MTAP-ASAL project to the Ministry' development account. These amounts have since been refunded to the Ministry's development account with the authority from the National Treasury and subsequently surrendered to the Exchequer.

There was also Kshs 3,072,874.05 overdrawn amount by the MTAP-ASAL project as tabulated above that resulted when part of the GoK funding to the project of Kshs 7,500,000 sent to the project account remained unspent of Kshs 3,109,058 at the end of the financial year was erroneously surrendered to the Exchequer before the project had utilized it. In the December 9th meeting above, it was resolved that the Ministry refunds this money to the Danish Embassy.

Through communication between the Danish Embassy and the Ministry of Devolution and Planning, the National Treasury has requested that these funds be factored in the budget 2018/2019 to conclude this issue by way of refunding the same. The State Department of Devolution has already factored this amount in the budget of financial year 2018/2019.

Description	Total (Kshs)	Danida (Kshs)	GOK (Kshs)
Opening balance	34,730,114.10	29,846,145.00	4,883,969.10
Funds received in the year	402,653,855.00	395,153,855.00	7,500,000.00
Total funds available for use	**437,383,969.10**	**425,000,000.00**	**12,383969.10**
Less Total Payments	(396,383,544.65)	(380,925,701.50	(15,456,843.15)
Closing Balance	**41,001,424.45**	**44,074,298.50**	**(3,072,874.05**

Committee Observations and Findings

(i) The bank balance of Kshs.52,089,891 as at 30 June 2016 included a balance of Kshs.44,074,299 - Danida Revenue Funds, an overdraft of Kshs.3,072,874 GOK funds and Kshs.11,088,467 - Danida A-in-A account all held at the Central Bank of Kenya. However, the bank reconciliation for the account balances at Central Bank totaling Kshs. 41,001,424 reflected a cash book balance of Kshs. 33,326,174 resulting in unexplained differences of Kshs. 7,675,250. Further, the overdrawn GOK funds bank account of Kshs. 3,072,874 was not represented by an existing project bank.

Committee Recommendations

(i) The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

166. Imprest

Included in the statement of financial assets and liabilities as at 30 June 2016 is an imprest amount of Kshs.3,109,058 described in note 7.7C as due from Safaricom Limited. Information available indicates that the amount was a surrender of imprest previously advanced to the Programme by the State Department of Devolution amounting to Kshs. 7,500,000. However, there was no documentary evidence availed in support of the advance, neither was there any justification for payment of the imprest by the Project. The Project closed on 30 June 2016 and it is not possible to confirm whether the Project will be able to recover the advanced amount of Kshs. 3,109,058.

Submission by Accounting Officer

The Accounting Officer stated that the Kshs 3,109,058 was not an imprest as such but represents the unspent amount of the GOK contribution of Kshs 7,500,000 to the MTAP-ASAL project. In the December 9th 2017 meeting between the Danish Embassy officials, the PS state department of devolution and the Auditors it was agreed that the term imprest was improperly used but rather be replaced as unspent GOK contribution .These unspent portion was erroneously surrendered to the exchequer at the end of the year ending June2016. At the same meeting it was agreed that these amount be refunded to the Danish Embassy the reason being that it brought about the overdraft as tabulated above (Kshs 3,072,874.05). After subsequent communications between the embassy, the national treasury and the ministry, the budget to refund these overdrafts has been factored in the Budget for the current year 2018/2019 budget.

Committee Observations and Findings

(i) **The accounting officer stated that the Kshs 3,109,058 was not an imprest as such but represents the unspent amount of the GOK contribution of Kshs 7,500,000 to the MTAP-ASAL project**

Committee Recommendations

(i) **The explanation by the Accounting Officer was satisfactory.Therefore, the matter is resolved.**

167. Demand Driven Development Planning Expenses

i. The statement of receipts and payments reflects expenditures of Kshs.376,698,750 and Kshs.293,920,684 under Demand Driven Development Planning for the financial years 2015/2016 and 2014/2015 respectively. The expenditure of Kshs. 293,920,684 includes Kshs. 257,291,528 cash at the bank that was held by Water Service Trust Fund (WSTF) at the end of the year which has not been accounted for in these financial statements.

Further, the expenditure of Kshs. 376,698,750 incudes a transfer of Kshs. 325,000,000 to WSTF out of which Kshs.134,743,641 represents cash in bank as at 30 June 2016 that is already expensed.

ii. The net expenditure difference of Kshs. 190,256,359 has not been supported with relevant information and documentation.

Under the circumstances, the accuracy and validity of Demand Drawn Development Planning payments of Kshs. 376,698,750 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Water Services Trust Fund (WSTF) fund received funding from the Ministry amounting to Kshs 325,000,000 and had a balance of Kshs 134,743,641 as cash in bank. However the expenditure returns for the difference in spending had not been provided by closure of the financial year. However the WSTF received extensions of their mandates from the Danish Embassy to extend their activities up to June 2017. After June 30th 2017, they have been audited as per their Memorandum of Understanding (MOU) of their extension ref: enclosure 2, file 2015-36392 dated 13th December 2016 addressed to the PS SDD.

Committee Observations and Findings

(i) **The Water Services Trust Fund (WSTF) fund received funding from the Ministry amounting to Kshs 325,000,000 and had a balance of Kshs 134,743,641 as cash in bank. However the expenditure returns for the difference in spending had not been provided by closure of the financial year.**

Committee Recommendations

(i) **The explanation by the Accounting Officer was satisfactory.Therefore, the matter is resolved.**

168. ASAL Secretariat and Knowledge Management Expense

The ASAL Secretariat and Knowledge Management expenditure amounting to Kshs. 78,330,117 includes transfers of Kshs.47,520,000 to Water Resource Management Authority (WRMA). The agreement between WRMA and the State Department of Devolution required WRMA to refund to the Project account by 30 April 2016 any monies not spent at the closure of the project whichwas 31 December 2015. Information and records availed indicates the unutilized cash and bank balances held by WRMA as at 30 June 2016 amounted to Kshs.35,970,684 even though it was supposed to have been refunded by 30 June 2016. The balance has not been disclosed in these financial statements. No evidence was provided to confirm that the above balance was refunded to the Project account after the Project closed down. Further, the agreement between WRMA and State Department of Devolution required the funding advanced by the project to be disclosed in the audited financial statements of WRMA and an audited copy availed to the project management. The audited copy has not been provided for audit examination. Under the circumstances, the accuracy and validity of ASAL Secretariat and Knowledge Management expenditure amounting to Kshs. 83,490,684 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the state Department of Devolution transferred KSHS 47,520,000 to the Water resources management Authority(WRMA) and that the agreement between WRMA and the state department of devolution required WRMA to refund any unspent balance of monies by 30th April 2016 4 months after the end of the project on 31st December 2015.

However the WSTF received extensions of their mandates from the Danish Embassy to extend their activities up to June 2017. After June 30th 2017, they have been audited as per their Memorandum of Understanding (MOU) on their extension vide ref: enclosure 2, file 2015-36392 dated 13th December 2016 from the Danish embassy addressed to the PS SD**.**

Committee Observations and Findings

(i) **The state Department of Devolution transferred KSHS 47,520,000 to the Water resources management Authority(WRMA) and that the agreement between WRMA and the state department of devolution required WRMA to refund any unspent balance**

of monies by 30th April 2016 4 months after the end of the project on 31st December 2015

Committee Recommendations

(i) **The explanation by the Accounting Officer was satisfactory.Therefore, the matter is resolved.**

WESTERN KENYA COMMUNITY DRIVEN DEVELOPMENT AND FLOOD MITIGATION PROJECT IDA CREDIT NO.4278-KE – MINISTRY OF DEVOLUTION AND PLANNING

Basis for Qualified Opinion

169. Imprest and Advances

The imprest advances balance of Kshs.673,779 as at 30 June 2016 relates to imprests issued to officers that has remained outstanding from prior years. In addition, imprest amounting to Kshs. 1,680,000 supposedly issued to officers from Masinde Muliro University in August 2015, has been cleared from the imprest account without adequate supporting documentation.

Under the circumstances, the accuracy of the imprest balance amounting to Kshs.673,779 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the financial statements include imprest and advance balance of Kshs. 2,353,778.95 as at 30th June 2016 which includes Kshs. 637,779.00 relating to imprest which has remained outstanding from prior years and Kshs 1,680,000.issued to officers from Masinde Muliro University in August 2015.

The imprest of Kshs 637,779.00 belonged to an officer who was separated from the project in 2009. The total imprest issued to the officer amounted to Kshs. 1,261, 581.10 of which the project managed to recover Kshs. 623,802.10 from his dues leaving an outstanding balance of Kshs. 637,779.00. The Ministry has written to the solicitor general vide the letter Ref. No. WKCDD/FMP/GEN/018 to embark on measures of locating and recovering the above balance since the project could not trace the officer at the time of closure**.**

In addition the Ministry wrote to the Chancellor Masinde Muliro University for the officers to account for the monies issued to them. They responded and the imprest amounts were cleared from the records.

Committee Observations and Findings

(i) **The financial statements include imprest and advance balance of Kshs. 2,353,778.95 as at 30th June 2016 which includes Kshs. 637,779.00 relating to imprest which has remained outstanding from prior years and Kshs 1,680,000.issued to officers from Masinde Muliro University in August 2015.**

Committee Recommendations

(i) **The explanation by the Accounting Officer was satisfactory.Therefore, the matter is resolved.**

170. Accuracy of Financial Statements

The Project's statement of receipts and payments reflects total computed cumulative deficit of Kshs. 18,552,111 which differs with the cash balance for the project net balance of Kshs. 603,914,542 as at 30 June 2016 by Kshs. 622,466,653. The variance has not been explained or reconciled. Under the circumstances, the accuracy of the financial statements could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of receipts and payments for the year ending 30th June, 2016 reflected cumulative receipts and payments which do not agree with the computed accumulated figures. This was an arithmetic error upon computation of the cumulative figures which is highly regretted and has since been amended to the correct position as indicated below;

Receipts	**Cumulative Balance 2014/15 FY**	**Current Balances**	**Corrected Balances**
Transfer from Government Entities	304,623,746	78,960,000	383,583,746
Loan from external development partners	4,228,774,521	289,242,994	4,518,017,515
Miscellaneous receipts	8,988,298	42,771,771	51,760,075
Payments			
Compensation of employees	243,224,899	104,725,666	347,950,565
Purchase of goods and services	820,492,324	141,915,640	962,407,964
Social Security benefits	51,718,632	110,915,706	162,634,329
Acquisition of non-financial assets	1,403,112,393	433,791,828	1,836,904,221

Committee Observations and Findings

The Project's statement of receipts and payments reflects total computed cumulative deficit of Kshs. 18,552,111 which differs with the cash balance for the project net balance of Kshs. 603,914,542 as at 30 June 2016 by Kshs. 622,466,653. The variance had not been explained or reconciled.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

8.0. MINISTRY OF DEFENCE

FINANCIAL STATEMENTS FOR VOTE 1041

Mr. Mr. Saitoti Torome, the accounting officer Vote 1041, State Department for Defence appeared before the Committee on 17th July 2018 to adduce evidence on the audited Financial Statements of Vote 1041 Ministry of Defence for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **L.T Gen Kasaon - Deputy Chief of Defence Forces;**
2. **Mr. C.K Muhia - Senior Chief Finance Officer;**
3. **Brig. J. A. Ouda - Commander 12 Engineer Baracks;**
4. **Col. E.M Mwanyika - Col works DHQ;**
5. **Ms. E.W. Wanjonji - Ag. Principal Accountant**
6. **Brig. MC Okech – DHQ;**
7. **Mr. Gabriel Melita Ndilay - Personal Assistant to PS; and**
8. **Mr. Gerald F. Sakwa; Liaison Office DHQ**

Basis of Qualified Opinion

172. Food Processing Factory

172.1 Proposed Construction of Main Building for Food

Processing Factory

Examination of contract records show that a contractor was awarded a contract for construction of a building for food processing factory at Kenyatta Barracks, Gilgil at a contract sum of Kshs.459,960,055 on 4 March 2015. The works commenced on 4 March 2015 and were expected to be completed on 5 March 2016.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Ministry entered into a contract for the construction of a building for the Food Processing Factory at Kenyatta Barracks, Gilgil at a contract sum of **Ksh. 459,960,055.** I wishhowever to clarify that the works commenced **on 23rd November 2015** and were to be completed by **23rd November 2016.** The works therefore did not commence on 4th March 2015 with an expected completion date of 5th March, 2016 as observed by the Auditor General.

Committee Observations and Findings

The Ministry entered into a contract for the construction of a building for the Food Processing Factory at Kenyatta Barracks, Gilgil at a contract sum of Ksh. 459,960,055. The works commenced on 23rd November 2015 and were to be completed by 23rd November 2016.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

172.2 Proposed Civil Works for Food Processing Factory

The Ministry awarded another contract to the same contractor to undertake civil works at the same factory on 21 April 2015 at a tender sum of Kshs. 30,704,300. The contract period was recorded as six (6) months with the project due for completion being 31 December 2015.

(i) Scope of Works

The scope of works included but not limited to construction of road work, parking, foot path, storm water drainage, landscaping and access road.

(ii) Audit Inspection

Audit inspection of the site undertaken in June 2016 revealed that the contractor had abandoned the works. A sum of Kshs. 22,628,800 or 73% of the contract sum had been paid to the contractor as of 31 December 2015. Although the contract period had elapsed, there were outstanding works including road works, landscaping, foot paths and storm water drainage works for which the Ministry has not acted in accordance with the general conditions of the contract.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Ministry also awarded Civil Works to M/S Waruhiu Construction Ltd at a tender sum of **Kshs 30,704,300** in May 2015. The scope of works included construction of road works, parking, foot path, storm water drainage, landscaping and access road.

As the civil works progressed, documentation for the factory's main works was completed and awarded to the same Contractor who was doing the civil works after a competitive tendering process. Given the scope of the civil works, it was observed that, it was not practical for both the civil works and the main factory building works to be undertaken concurrently because the constant movement of heavy trucks delivering materials to the factory would have interfered adversely with the ongoing civil works. The Contractor therefore requested and was allowed to temporarily put on hold the road works to avoid overlapping and disruption. The Civil works Contractor did not therefore abandon the site. As at the time the works were temporarily put on hold, the contractor had done a substantial proportion of the works and delivered on site materials for the completion of the remaining works hence the payment of Kshs 22 Million. The Civil works recommenced after the factory buildings had advanced enough for these works to be undertaken without disruption. Construction of the Main Building and the civil works is now complete and has been handed over to the employer.

Committee Observations and Findings

(i) **The Ministry also awarded Civil Works to M/S Waruhiu Construction Ltd at a tender sum of Kshs 30,704,300 in May 2015. The scope of works included construction of road works, parking, foot path, storm water drainage, landscaping and access road.**

(ii) **Audit inspection of the site undertaken in June 2016 revealed that the contractor had abandoned the works. A sum of Kshs. 22,628,800 or 73% of the contract sum had been paid to the contractor as of 31 December 2015. Although the contract period had elapsed, there were outstanding works including road works, landscaping, foot paths and storm water drainage works for which the Ministry has not acted in accordance with the general conditions of the contract.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

172.3 Non-Delivery of Equipment

Audit has further established that the Ministry entered into a contract with another firm on 25 June 2015 for supply and installation of food processing equipment at Kshs.373,174,000. The equipment had, however, not been delivered as at the time of the audit inspection despite the firm having been paid the entire contract sum.

Submission by Accounting Officer

The Accounting Officer stated that the equipment for the factory was procured through an International Restricted Tender won by Marshal Fowler Engineers – India at a contract sum of **USD 3,084,238.00 i.e. Kshs. 374,174,000.** According to the negotiated contract, payment terms were in four (4) installments as follows:

S/No.	Item	Amount (USD)
i.	Thirty per cent Advance	USD 925,271.40
ii.	Thirty per cent on pre shipment inspection	USD 925,271.40
iii.	Thirty per cent on delivery of equipment	USD 925,271.40
iv.	Ten per cent after training	USD 308,423.80
	Total	**USD 3,084,238.00**

At the time of the Audit Inspection the entire contract sum had not been paid to the firm. Total amount paid to the firm at that time was **USD 1,850,542.80** (sixty percent of the contract sum) being instalment no 1 and 2 as listed above. The Final Inspection and Acceptance Committee was constituted to undertake final inspection which facilitated payment of 3rd instalment amounting to **USD 925,271.40.** The last ten percent of the contract price was paid after the factory was completed.All the equipment has now been delivered and commissioned.Thecorrect position is that at the time of the Audit, only sixty percent of the contract sum had been paid to cater for advance and pre shipment inspection as stipulated in the contract and guided by the Procurement Laws and Regulations.

To date the delivered equipment has been installed and is in operation. As of 26th June 2018, approximately a total of **forty-three (43) Metric tons** of assorted foodstuffs has been produced of which **twenty-three (23) tons** has been supplied to operation areas. The factory is expected to contribute immensely to the realization of the 'Big Four' Government Development agenda.

Committee Observations and Findings

The Ministry entered into a contract with another firm on 25 June 2015 for supply and installation of food processing equipment at Kshs. 373,174,000. The equipment had, however, not been delivered as at the time of the audit inspection despite the firm having been paid the entire contract sum.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

173. Proposed ORS Single Accommodation at Embakasi Garrison

173.1 Award of Contract

Examination of contract records indicate that restricted tendering method was used to award a contract for ORS single accommodation, Embakasi Garrison at a contract sum of Kshs.316,925,360 on 30 June2012. The works commenced on 14 March 2013 with an expected date of completion of 14 March 2014.

Submission by Accounting Officer

The Accounting Officer stated that it was true that this contract was awarded through "restricted tender" method in compliance with the provisions of the Public procurement and Disposal Act 2012 at a contract sum of **Kshs. 316,925,360.** The works commenced on 14 March 2013 and were scheduled to be completed by 14 March 2014.

Committee Observations and Findings

- **(i) Restricted tendering method was used to award a contract for ORS single accommodation, Embakasi Garrison at a contract sum of Kshs. 316,925,360 on 30 June 2012. The works commenced on 14 March 2013 with an expected date of completion of 14 March 2014;and**
- **(ii) The reasons for use of restricted tendering provided by the Accounting Officer were not convincing and justifiable in law since there was no written approval of the Ministerial Tender Committee tender and records in writing providing the reasons for using the alternative procurement procedure as required under Section 29(3) of the Public Procurement and Disposal Act 2005**

Committee Recommendations

The DCI and EACC should, within three months after adoption of this report, investigate the use of restricted tendering contrary to the provisions of Section 29(3) of the Public Procurement and Disposal Act 2005 and allow for prosecution, if evidence permits.

173.2 Scope of work

The scope of works included but not limited to preliminaries, builders works, civil works, foul drainage system, electrical works, plumbing, drainage, fire- fighting and solar water heating.

Submission by Accounting Officer

It was correct that the scope of the works included but was not limited to preliminaries, builder's works; civil works foul drainage system, electrical works, plumbing drainage and solar water heating.

Committee Observations and Findings

The scope of works included but not limited to preliminaries, builders works, civil works, foul drainage system, electrical works, plumbing, drainage, fire- fighting and solar water heating.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

173.3 Audit Inspection

Audit inspection undertaken on 12 July 2016 revealed that the contractor had already been paid Kshs. 265,816,303 or 84% of the contract sum. However, the project had not been completed, an indication that the contractor was illegally on site twenty-eight (28) months after the expected completion date of 14 March 2014. No reasons have been given for failure to recover liquidated damages from the contractor as required under Clause 27 of the general conditions of contract.

Submission by Accounting Officer

The Accounting Officer stated that it was true that there were delays in completion of works based on the contract duration of one year. The delay was occasioned by cash flow problems experienced by the Contractor as he was totally dependent on payments from the Ministry to implement the works. As a result, the Contractor sought for contract extension which the Ministry considered and allowed as terminating the contract could have led to further delays and huge escalation of costs. The contract was therefore not completed as scheduled. Despite the delay, the works were finally completed to our satisfaction and the Ministry is convinced that value for money was obtained. All the three blocks each containing **eighty-eight(88)** rooms are fully occupied.

Committee Observations and Findings

There were delays in completion of works based on the contract duration of one year. The delay was occasioned by cash flow problems experienced by the Contractor as he was totally dependent on payments from the Ministry to implement the works

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

174. Procurement of Aircrafts, Related Services and Spare Parts

174.1 Background Information

Examination of available records show that the Ministry procured aircrafts from Royal Jordanian Air force through government to government negotiations and several contracts were signed as follows:

(i) Purchase Price of the Aircrafts

The purchase price of the Aircrafts recorded in Contract No. RJAF/KAF/2007 dated 26 April 2007 was US$ 15,291,503.

(ii) Technical Assistance and Maintenance Services

Technical Assistance and Maintenance Services recorded in Agreement No. JAC/COMM/02/184 – GOK dated 27 April 2007 were procured at US$ 12,264,995.

(iii) Direct Procurement of Supplementary Services

A direct procurement of supplementary services for the fleet recorded in Contract No. MOSD/JAC/SUPPL/01/2008 was signed on 30 January, 2009 for a sum of US$ 2,883,562. However, the details of these services have not been provided for audit review contrary to the provisions of Section 9 (i) (e) and (f) of the Public Audit Act, 2015.

(iv) Delivery of the Aircrafts

Records show that these aircrafts were delivered, assembled and tested. However, an inspection undertaken by the Ministry's technocrats revealed a number of defects.

174.2 Addendum for the Purchase of Spare Parts

Records further show that the Ministry procured aircrafts spare parts at a cost of US$ 12,956,827 on unspecified date from a firm through restricted tendering instead of procuring directly from the specific aircraft manufacturer. It was not possible to confirm under the circumstances, whether value for money was obtained in the procurement of these spare parts or whether payments for the spare parts were lawful and effective as required under Article 229(6) of the Constitution of Kenya, 2010.

174.3 Audit Inspection

An audit verification of the aircrafts was carried out in June 2016 at Laikipia Air Base and the following observations were made: -

i. The defects identified at the time of the delivery of the aircrafts had not been rectified as at the date of inspection.
ii. Audit of fuel and servicing records indicated that seven (7) aircrafts have not been operational from the time they were procured; however, they are being used as sources of spare parts for other similar machines. No justification has been given for the purchase of seven (7) aircrafts at USD 7,136,035 (Kshs. 498,174,453) then use them as sources for spare parts.

Submission by Accounting Officer

The Accounting Officer stated that the Ministry views the query as a sensitive security matter and requested that the issue be handled under classified information category.

Committee observations and Findings

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

175. Prior Year Audit Issues

The following issues were raised in the previous year's report and have not been satisfactorily addressed in the year under review: -

175.1 Payment of Taxes on Imported Goods

Reference was made in the report for 2014/2015 on imprests amounting to Kshs. 162,296,569 that were issued to officers serving at Central Supply Depot (CSD) and Kenya Air Force Logistics Branch in respect of Value Added Tax(VAT) and Excise Duty on imported military equipment. Although the amount is claimed to have been deposited in A/c No. 01003058230400 at National Bank of Kenya owned by KRA Customs and Excise Tax COLLN, examination of tax returns submitted by Kenya Revenue Authority does not reflect the receipt of the said amount.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Ministry paid Kshs.162, 296,569.25 through imprests for Value Added Tax (VAT) and Railway Development Levy (RDL) introduced through the Finance Act NO. 38 of 2013 on imported military items at the port of Mombasa and various Airports in Kenya.

The ministry imports goods of high value resulting in high VAT amounts, therefore necessitates use of imprests to pay VAT at KRA at each stage of clearance of goods at the ports. This is the reason for depositing money at National Bank of Kenya Account No. 01003058230400.

The Kenya Revenue Authority has confirmed receipt of **Kshs. 162,296,569.25** out of which **Kshs. 36,274,813.00** was received for various transactions which could not be directly traceable in the bank statements as it related to two or more goods cleared. These goods have now been identified and matched to the funds in National Bank Simba system and the appendix has been availed to the auditors.

We wish to state that the amount of **Kshs. 162,296,569.25** that was outstanding at the time of audit has now been reconciled and evidence provided to the auditors.

Committee Observations and Findings

The Ministry paid Kshs.162, 296,569.25 through imprests for Value Added Tax (VAT) and Railway Development Levy (RDL) introduced through the Finance Act NO. 38 of 2013 on imported military items at the port of Mombasa and various Airports in Kenya.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

175.2 Procurement and Utilization of Hydraulic Excavators

Examination of records revealed that the Ministry procured two (2) Caterpillar 374 DL through direct procurement from Mantrac Kenya Ltd in 2011/2012 financial year at Kshs.185,323,994 instead of Kshs.40,000,000 which was the prevailing market price based on a market survey undertaken by the user. No explanation has been given so far for excess and illegal payment of Kshs. 145,323,994 over and above the market price.

Submission by Accounting Officer

The Accounting Officer stated that the matter was explained in detail during our last appearance before the PAC and the outstanding issue was in regard to the correct market price. I wish to explain that the market survey of **Kshs.40 million** which the Auditor General had come across in his audit might have been for a different and lower model and not for the Heavy-Duty Excavator Model 374 DL which the Ministry procured. This position is informed by the tender price quoted by Mantrac who are the sole supplier of this equipment. The unit cost of one Heavy Duty Excavator Model 374 DL was **Ksh 66,207,000.00.** In addition, the cost of accessories, training package and maintenance/servicing for the two excavators totaled to **Kshs. 52,909,994.00**. Considering the unique tasks the excavators were to perform, the total sum of **Kshs. 185,323,994.00** was considered reasonable, for the two new equipment, their accessories, training package costs and maintenance/servicing after 2000 hrs. The Committee may further wish to note that Mantrac had sold the same model of equipment to other two buyers during this period at almost the same price.

Committee Observations and Findings

(i) **Examination of records revealed that the Ministry procured two (2) Caterpillar 374 DL through direct procurement from Mantrac Kenya Ltd in 2011/2012 financial year at Kshs. 185,323,994. The unit cost of one Heavy Duty Excavator Model 374 DL was Kshs. 66,207,000.00. In addition, the cost of accessories, training package and maintenance/servicing for the two excavators totaled to Kshs. 52,909,994.00.**

(ii) **The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.**

9.0. MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE

FINANCIAL STATEMENTS FOR VOTE 1051

Amb. Macharia Kamau, the Accounting Officer for Vote 1051, Ministry of Foreign Affairs and International Trade appeared before the Committee on 3rd May 2018 to adduce evidence on the audited Financial Statements of Vote 1051Ministry of Foreign Affairs and International Tradefor the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.He wasaccompanied by the following Officials:

1. **Ms. Nancy Kanyago - Project Coordinator;**
2. **Amb. E. Barine - Director Liaison;**
3. **Mr. Henry Obino - Director Administration;**
4. **Mr. James Aloyo - Senior Chief Finance Officer; and**
5. **Mr. Solomon Nyamoro; Finance Officer**

Basis for Qualified Opinion

176. Understatement of Receipts

The statement of receipts and payments reflects total receipts of Kshs.15,748,904,300 which include other receipts amounting to Kshs.618,008,706. The other receipts as disclosed under Note 4 to the financial statements relate to receipts from administrative fees and charges collected as Appropriations-in-Aid (A.I.A). Contrary to Regulation 43(c) of the Public Finance Management (National Government) Regulations, 2015, A.I.A totaling Kshs.128,791,097 collected at the Ministry's Headquarters and at six missions and embassies as detailed below were omitted from the financial statements:

Mission/Embassy	**Amount (Kshs)**
Headquarters Administrative services	4,388,881
London	51,163,771
Lusaka	2,979,680
Abuja	38,401,852
Rome	7,821,910
Kampala	15,983,120
Muscat	8,051,883
Total	**128,791,097**

In this regard, therefore, the completeness and accuracy of the other receipts balance of Kshs.618,008,706 reflected in the financial statements cannot be confirmed.

Submission by Accounting Officer

Understatementof Revenue at the Ministry Headquarters

Amount of misstatement/error: Ksh 128,791,097.00

The Accounting Officer stated that the Government allowed the ministry to collect fees from service rendered by the ministry in the missions as Appropriations in Aid and to utilise the funds to supplement exchequer funding from the National Treasury. This is evidenced by the fact that the National Treasury provided budget items for these A.I.A. collections and incorporated the same in the budget which was there-after approved by Parliament as such. In addition, the Ministry was not appointed as "Receiver of Revenue" during the year under review for the above collections.

The Accounting Officer stated that it was true that during the year under focus, a total of Kshs. 128,791,097.00 was collected as A.I.A. from the Ministry's headquarters activities and from six missions abroad but was inadvertently omitted from the financial statements**.** This collection was originally captured in the financial statements but since the supporting documents were not available at the time, they were removed from the statements. The same has been incorporated in the Financial Statement for 2016/2017 and availed for audit verification.

Committee Observations and Findings

The Committee noted that the revenues were eventually captured and reflected in 2016/2017 financial statement.

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that all revenues are reflected in the appropriate financial statements.

177. Compensation of Employees

The statement of receipts and payments reflects payments totaling Kshs.6,583,386,161 under compensation of employees as further disclosed in Note 5 to the financial statements. The amount includes Foreign Service allowances that were paid irregularly as follows:

177.1 Overpayment of Foreign Services Allowance at Kenyan Embassy in Moscow

During the year under review, the officers serving at Kenyan Embassy in Moscow were paid foreign service allowance under category A.2 - United States and Other Stations instead of the approved rate under category A.1 Euro Zone stations contrary to circular letter Ref: MFA/ADM.1.43A(38) of 22 November 2012 on payments of Foreign Service Allowances. This resulted in an over-payment of Kshs.8,567,214. No explanation has been given for this anomaly.

Submission by Accounting Officers

The Accounting Officer stated that it was true that following the re-categorization of Missions for purposes of payment of Foreign Service Allowances, Kenya Embassy Moscow was placed in Category A-Euro Zone. The Mission, however, adopted category A Dollar as opposed to their official classification thereby occasioning an over-payment of Kshs.8, 567,214 by 30th June 2016. To address this matter, the Ministry has instructed the Mission revert to its official category with immediate effect and to compile a list of the officers who benefited from the overpayment for purposes of instituting recoveries.

Committee Observations and Findings

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that foreign missions adhere to guidelines issued by the ministry.

177.2 Payment of Foreign Service Allowance to an Ineligible Officer

Examination of records show that Ambassador of Kenya to South Sudan was recalled on 6 June 2013. Shipment and transfer allowances totalling Kshs.2,474,082 were paid to him through payment vouchers Nos.231 and 232 dated 31 March, 2016. However, the officer has continued to receive Foreign Service allowance and as of 30 June 2016 an amount of Kshs.15,024,000 had been paid to him contrary to Section D.19 of Kenya Foreign Service Regulations.

Submission by Accounting Officer

The Accounting Officer stated that it was true that Amb. Cleland Leshore Kenya's Ambassador to South Sudan was recalled on 6th June 2013 but continued earning Foreign Service Allowance after this period. This is because the Ambassador's tour of duty was extended and his Contract renewed up to 1st January, 2016. This was later further extended to 31st December, 2017 as per the attached copy of Local Agreement form GP.106 (Revised 1975) duly signed and the Appointment letter signed by the Cabinet Secretary.

Additionally, the ambassador was rightfully paid **Kshs.2,474,082** in respect of shipment and transfer allowances, which are entitlements paid to all officers at the end of their tours of duty. The ambassador has neither requested for nor benefitted more than once in respect of shipment and transfer allowances.

Committee Observations and Findings

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that proper explanations are given to the Auditor-General on time in order to avoid audit queries.

178. Use of Goods and Services

The statement of receipts and payments reflects payments totaling Kshs.6,703,810,253 under use of goods and services as further disclosed in Note 6 to the financial statements. The amount includes irregular payments as follows:

178.1 Event Organization and Management of the World Trade Organization Ministerial Conference Expenses

The tender committee on 19 February 2015 due to urgency of the matter approved use of direct procurement to procure services for event organization and management of the World Trade Organization (WTO) Conference that was held from 15 to 19 December 2015. However, no plausible explanation for the use of direct procurement has been given as the tender was awarded five (5) months later on 10 June 2015, to a local firm at a contract price of Kshs.82,900,560. In addition, the general terms of reference under which the tender was quoted and awarded were later reviewed and re-categorized contrary to Section 59(3) of the Public Procurement and Disposal Act, 2005.

Submission by Accounting Officer

- **Reasons for Direct Procurement**

Time Constraint: After Kenya won the bid to host the 10th WTO Ministerial conference in December 2015, the cabinet later granted the approval for funding the said conference in January 2015. However, the time left to the date of conference for preparatory work was limited. As a key step in the preparation process, the WTO task force from its secretariat in Geneva visited Kenya from 3rd to 6th February 2015 and had a meeting with the National Preparatory Committee formed for that purpose, to discuss the requirements for hosting the conference. Key among the requirements was the urgent need to identify and procure an event organizer to manage centralized hotel bookings for delegates. This urgency was necessitated by the fact that delegations across the globe were making independent hotel bookings which was contrary to WTO requirements. The WTO Secretariat was expected to urgently send a note to delegations informing them of the identified event organizer.

Based on this urgency and time constraint, GINADIN GROUP was procured as an event organizer and commenced the work immediately. Other key factors that informed direct procurement include the following:

Security Considerations: Being an international conference, it was expected to be attended by dignitaries including presidents. The organizer was required to have been vetted and to have been found safe and fit for the task. Therefore, the Ministry had to use a firm that had previously been vetted.

Past Experience: The government had a number of firms that it had used to organize events of similar magnitude and nature and were found capable. The Ministry sought and obtained references of such firms to use for WTO. From the previous experience, GINADIN had managed high-level government and non-governmental conferences and bids such as AGOA conference, 7th global conference on health promotion, the First United Nations Environment Assembly among others

- **Delay in signing of the contract:**

After the event organizer had been procured urgently using the direct procurement based on the reasons outlined above, the firm was notified to commence work immediately. However, the contract was not signed before start of work because it took time for the WTO sub-committee to agree on the Terms of Reference. Further, the TORs were to inform the cost of the contract and therefore it was prudent that they were negotiated before the contract was signed.

- **Change of Terms of Reference**

The consultant had quoted Kshs. 380 million as per the original TORs. This was reduced to Kshs. 82,900,560 after negotiations and reduction of scope as per section 84 (1) and 85 (2) of PPD Act 2005.

Committee Observations and Findings

(i) The Committee noted the urgency of the matter which informed the use of direct procurement.

(ii) The Committee further noted the international character of the WTO event and the need for due diligence on the potential event organizers.

Committee Recommendations

The Ministry should ensure that there is a list of pre-qualified service providers in specialized services pursuant to Section 93 of the Public Procurement and Disposal Act 2015.

178.2 Rental Expenditure at Kenya Missions and Embassies

178.2.1 Bangkok, Thailand

Examination of records maintained at Kenyan Embassy in Thailand revealed that the former Ambassador returned to Kenya in July 2013. The embassy, however, continued paying rent for the house previously occupied by him. As a result, an amount of Kshs.8,700,000 had been paid as of 31 July 2014 for the unoccupied rental premises.

Submission by Accounting Officer

The Accounting Officer stated that it was true that Amb. Richard Ekai left Bangkok in 2013 following his Appointment as the Principal Secretary, Ministry of Sports. Upon his departure from Bangkok, the Government appointed Mr. Ali Mohamed Yusuf as his replacement and sent his credentials to the host country as required by Protocol. Our Embassy in Bangkok was notified by the Ministry of Foreign Affairs Thailand that the appointment had been received and conveyed to the relevant authorities. With this information, the Mission was forced to hold onto the lease for the Ambassador's house since it was clear that a new ambassador would soon be reporting to the station. This decision was reinforced by the following considerations:-

- Ambassador's residences must be located in designated enclaves for security and diplomatic reasons. Given the high demand for houses in such locations, identification of new houses takes long and costs equivalent of two months' rent in urgency fees.
- Taking a new house would entail paying higher rental charges as such movements allow the landlords to review rents upwards.
- Vacating a house requires paid notice which in most cases amounts to two months' rent.

When it became apparent that the appointment was taking long, however, the Mission sought and was granted authority to terminate the Lease vide letter Ref. MFA.HSE/9/II dated 20th June 2014 in accordance with the terms of the lease. Subsequently, the lease was terminated and all household items transferred to a storage warehouse on 15th July, 2014

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries.

178.2.2 Seoul, South Korea

Similarly, at Kenyan Embassy in South Korea, an officer returned to Kenya on 31 December 2016 and the house which was occupied by the officer continued to attract quarterly rent amounting to Kshs1,111,980 despite being vacant. The embassy has so far incurred rental expenditure totaling Kshs.2,223,960 for the duration that the house has remained vacant.

Submission by Accounting Officer

The Accounting Officer stated that it was true that at the Kenyan embassy in South Korea, a residential house fell vacant on 31st December, 2016 when the occupant came back to the country after end of her tour of duty. However, an Administrative attaché was expected at the Mission soon after and therefore the Mission extended the lease for the house by negotiating to pay rental fee for 3 months instead of 6 months as the initial lease agreement indicated. This property offered value for money because of its location, size and relatively low rent.

Three officers were posted to this mission vide posting order No.1/2017 dated 20th January, 2017 and they were to report by 1st March, 2017**.** The posting did not take effect as expected, thereby forcing the mission to terminate the lease soon thereafter.

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries.

178.2.3 Mogadishu, Somalia

Records available at Kenyan Embassy in Mogadishu, indicates that the embassy entered into an accommodation arrangement with M/s Idman General Co Limited for fourteen (14) persons at US$250 per room per day and four (4) office rooms at US$200 per room per day with effect from 28 July 2015. However, staff establishment of the embassy is recorded as thirteen (13) for the period ending 2 February 2017. A room, therefore, remained vacant for 554 days but was paid for, resulting in an irregular expenditure of Kshs.13,697,650.

Submission by Accounting Officer

It was true the mission rented 14 residential rooms and 4 office rooms in Al Jazeera Palace Hotel during the period under review.

Since the hotel block had 18 rooms, the embassy took occupation of all the 18 rooms (14 residential and 4 offices) to enhance security since leaving any room in the hands of the hotel administrator would have allowed interlopers to encroach into the hotel block through the vacant room.

Of the14 residential rooms, 13 rooms were occupied by mission staff while the 14th room was used as embassy store for safe custody of security equipment, stationary and files.

Committee Observations and Findings

The explanation by the accounting officer was satisfactory and the matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries.

178.3 Irregular Payment for Contract for Digitization of the Ministry's Records

Examination of records maintained by the Ministry revealed that a contractor was awarded a contract on 6 February 2015 for digitization of records and document management systems at Kshs.40,159,548 for a duration of three (3) months. However, the contractor was paid an amount of Kshs.32,353,548 through payment voucher No. 64 dated 11 December 2015 before completion of the works. Further, the software licenses claimed to have been supplied were not made available for audit verification.

In addition, the training that was supposed to be conducted never took place because the system failed and has since not been customized to meet the users' requirements. Above all, the contract whose execution period was three (3) months has not been completed two (2) years later.

Submission by Accounting Officer

The Accounting Officer stated that it was true that a firm (Attain Solutions) was awarded a contract on 6th February 2015 for digitization of records and document management systems. In compliance with the terms of the contract, the contractor was to be paid Kshs 24.5 million upon signing/execution of the contract on 21st July 2015. The contractor was due for a further payment of Kshs 7.5 million upon installation and testing of the system and training of relevant staff on the operation of the system. These tasks were finalised by December 2015 upon which payment of the first 2 instalments totaling Kshs 32 million was released to the contractor in December 2015.

It has been confirmed that the contractor supplied and installed Microsoft Office Server 2012 (Release 2013) as per specifications - this was the latest available Microsoft Office Server in the market during the year under review.

The accounting officer noted that it has also been confirmed that the contractor supplied and installed the Microsoft Office Server and system storage together with their licenses which was used to enable installation. The contractor retained the licenses to await commissioning so as to save the ministry from the responsibility of renewing the licenses before project commissioning.

The ministry, in liaison with the contractor mounted two training retreats (in Naivasha – August 2015 and Nakuru – April 2016) on digitization of records. The contractor, during these retreats, trained the identified officers on the concept and the key elements of the system before conducting system demonstrations. Recommendations made during the trainings have been used to improve the system before conducting the final demonstration, which has been done successfully. The ministry has appointed an implementation Committee to oversee full operationalization of the system.

To allow for acquisition and installation of compatible equipment, to obtain and incorporate recommendations of the ICT authority and other government security institutions and then to operationalize the system, the contractor sought for a no cost extension of the contract which was granted and conveyed in writing. The relevant information and supporting documentation have been availed for audit review.

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries.

178.4 Payments for Undelivered Storage Solution Servers

The Ministry awarded a tender for supply of two (2) storage solution servers at a price of Kshs.24,000,000 to a contractor through MTC Minute No. MFA/MTC/021/2014-2015. The entire amount was paid through payment voucher No. 57 dated 9 December 2015. Records confirming delivery, acceptance, installation and location of the servers have not been provided for audit review. Consequently, the delivery and existence of the servers could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the Ministry awarded a tender for supply of two (2) storage solution servers at a price of Kshs. 24,000,000 to a contractor through MTC Minute No. MFA/MTC/021/2014-2015. The storage solution servers were promptly supplied and installed in the ministry's main server room on 2nd floor, ministry headquarters. Payment was processed upon successful installation and testing. The relevant supporting documentation has been availed for audit review.

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries.

179. Refurbishment of Buildings at Kenya High Commission Windhoek, Namibia

179.1 Contract Price

Examination of contract records revealed that renovation of the Kenya House - Phase 2 in Windhoek, Namibia was awarded a contract sum of Kshs.289,416,280 (N$ 38,081,090) in year 2010 to a contractor and was to be completed within fifteen (15) months.

179.2 Delay in Completing the Works

Although the works commenced on 15 October, 2010 and were due to be completed on 24 January, 2012, the contractor had not handed over the works by February 2016. No justification has been provided for failure to recover the liquidated damages as required under Clause 27 of the conditions contract.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the project experienced delays in completion due to the following challenges:

a) Budget cuts and Irregular releases of exchequer
b) Contractor fatigue emanating from delays in payments,

The works were, however completed and a certificate of completion issued.

The ministry through the project manager notified the contractor during a site meeting of its intention to levy liquidated damages as per clause 27 of the conditions of contracts. The contractor in turn also notified the project manager of their intention to submit a contractual claim for interest on delayed payments and idle capacity during project suspensions. It was therefore mutually agreed that the Contractor China Jiangsu be released from the project and none would levy any claims. The contractor therefore ceded the works to another contractor to finalize the remaining works.

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times liaise with the National Treasury to ensure that exchequer release for budgeted projects is done on time to avoid exposing the Government to contractual liabilities.

179.3 Site Inspection

An audit inspection conducted on 7 March, 2017 revealed that defects identified in the snag list had not been corrected. Further, quality of work done may not have met the required standards as the building developed cracks soon after completion. In addition, a diligence check on the residential houses revealed that two (2) houses had been vandalized.

Submission by Accounting Officer

The Accounting Officer stated that it was true that an audit inspection was conducted in March 2017 during which it was established that the required actions on the snag list had not been completed. The Contractor, Undenge, that was assigned the works by the original contractor China Jiangsu, did not also complete the works. The Project Manager – State Department of Public Works then advised that the Contractor addresses specified defects and that the remaining defects be attended to under a separate contract. Subsequently, the Mission Contracted C.L.S Strauss construction company to undertake and finalize the snag list items. The contractor undertook some works but was terminated due to poor performance following evaluation by the project consultants. The Mission has embarked on the process of procuring another Contractor to complete outstanding works.

The audit observation on the cracks developing on the building forced the mission to seek technical inspection and advice. The Consultant who was engaged for the upgrading and renovation works was requested for advice, and they engaged Emcom Consultants who were the initial structural engineers. The engineers upon inspection concluded that the cracks had nothing to do with structural damage and were superficial on the plaster. An inspection team from State Department of Public Works was sent later to the site and established that the cracks were on the expansion joints as per design and therefore had no effect on the structure of the building.

Committee Observations and Findings

- **(i) The explanation by the accounting officer was satisfactory. However, the Committee noted that late involvement of the State Department of Public Works.**
- **(ii) The matter was marked as resolved.**

Committee Recommendations

- **(i) The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries.**
- **(ii) The State Department of Public Works must be involved in such projects from the onset in order to provide the necessary quality assurance.**

180. Proposed Construction and Renovation of Buildings for High Commission of the Republic of Kenya in Pretoria, South Africa

180.1 Award of Contract

Records available indicate that Contract No. D04/NB/NB/1201 for construction of a new ambassador's residence, renovation of the Chancery, renovation and renewal of four (4) dilapidated staff houses and construction of four (4) new staff houses on plot Erf 318 Polaris Avenue was awarded on 1 July 2015 to M/s Unik Civil Engineering (pty) Ltd being the main contractor at a contract sum of Kshs.734,400,000 (R102,000,000). Contract documents relating to M/s Tiki Architect (the project consultant) have, however, not been provided for audit verification.

Submission by Accounting Officer

The Accounting Officer stated that during the audit inspection, the project file which contained the contract documents for the main contractor, the consultant and the sub-contractors was availed for audit review. However, the contract for the consultant, M/s Tiki Architect, has been obtained from the project file and availed for audit review

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries.

180.2 Contract Period

The project commenced on 18 August 2015 and was scheduled to be completed on 31 January 2017 after duration of eighteen (18) months.

Submission by Accounting Officer

The Accounting Officer stated that the project has experienced several challenges that caused a delay in completion which are as follows:

a) Delay in release of exchequer,
b) Dispute with the Iranian Embassy whose residence neighbours the site for the residence of Kenya High Commission. A misunderstanding regarding two reciprocal servitudes for both properties caused a delay in approval of plans.

The Contractor thereafter applied for an extension of time which was granted, and the Contract is now current.

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

(i) The accounting officer must at all times liaise with the National Treasury to ensure that exchequer release for budgeted projects is done on time to avoid exposing the Government to contractual liabilities.
(ii) The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries.

180.3 Audit Inspection

180.3.1 Stalled Works

Although payments totalling Kshs.263,159,835 had been made to the contractor, an audit inspection undertaken on 10 March 2017 revealed that works on four houses under renovation stalled due to non-registration with the National Home Builders Registration Council. No effort has been made to rectify the anomaly.

Submission by Accounting Officer

The Accounting Officer stated that according to the Project Consultants, the Contractor delayed registration of the development of the four staff houses located at 318 Polaris with the National Home Builder's Registration Council. Construction was halted for a short while as the Contractor embarked on the process of making payments. Once the payment was effected, NHBRC authorized continuation of the works. This did not however affect the overall project completion period

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries.

180.3.2 Conflict on Construction Site

Although the construction of the Ambassador's residence is in progress, a dispute on plot No. 261 Crowne Avenue has not been resolved between the Kenya High Commission in Pretoria and the Government of Iran.

Submission by Accounting Officer

The Accounting Officer stated that the Government of Kenya bought property situated at 261 Crown Avenue in 1994. The property comprises three parcels of land namely ERF 1/1211, ERF 1844 and ERF 1281. The Deed of transfer for the property contains servitude (beneficial/subordinate interest) for the following:

i. The Kenyan property is granted a servitude over portion 3 of ERF 3/1211 (neighboring property) for right of way in favour of ERF 1/1211 (Kenya government land). The purpose of this servitude is to allow the Kenya government land access to the Road – Crown Avenue.
ii. A portion of the Kenya government land, i.e. portion 1 of ERF 1/1211 was granted servitude for right of use in favour of ERF 3/1211 which is now the Iranian Ambassador's residence plot.

The servitudes were registered back in 1968 by the Surveyor General of South Africa pursuant to Section 75 of the South Africa Deeds Registry Act N. 47 of 1937. They are in perpetuity, and can only be removed by mutual consent of both Governments of Kenya and of Iran as per the South Africa law. The servitudes are reciprocal since Kenya is using the servitude on the Iranian land for access while Iran has right of use of a small portion of Kenya land.

When the ongoing project commenced, the Consultants applied for amalgamation of the three portions of land comprising Kenya government land, to allow flexibility in design. At this point the Iranians objected and approvals could not be granted. The matter was referred to South Africa's Department of International Relations and Cooperation, but meanwhile, the Consultant was advised to revise the drawings so that the developments did not touch on the disputed portion of land. This facilitated approval of the drawings and construction has since been ongoing. The residence is now at about 40% completion rate.

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries.

180.3.3 Delay in Delivery of the Project

M/s Tiki has been paid Kshs.140,389,667, but an audit inspection revealed that works relating to civil and structural engineering have stalled due to disputes between the consultant and his employees. The conflict has delayed timely delivery of the project.

Submission by Accounting Officer

TheAccounting Officer stated that the civil and structural engineers are employees of the Consultant M/S Tiki Architects and therefore have no contract with Kenya government. The said dispute was however in reference to non-payment of fee note No. 05 which at the time had not been settled by the Ministry. We have not been alerted that this dispute may have caused any disruption to work on the ground and the latest progress report indicates that work is progressing well

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

(i) The accounting officer must at all times liaise with the National Treasury to ensure that exchequer release for budgeted projects is done on time to avoid exposing the Government to contractual liabilities

(ii) The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries.

181. Construction of Chancery and High Commissioner's Residence in Islamabad-Pakistan

181.1 Award of Contract

The project was awarded to M/s Consol Construction Solutions on 12 May 2008 at an initial contract sum of PKRs 385,321,826 (Kshs.443,120,099). The works were scheduled to commence on 12 May 2008, and be completed on 11 September 2010.

181.2 Contract Termination

The completion date of September, 2010 was revised thrice. However, the contractor did not enhance progress in construction work, resulting in termination of the contract on 30 July, 2014.

Submission by Accounting Officer

The Accounting Officer stated that various extensions were granted for this project due to challenges relating to insecurity, delayed payments, disruptive weather conditions, several and long holidays such as Eid al-Fitr, among others. It should be noted, however, that the Mission took occupancy of the Chancery building by May 2010, which was long before the contract was terminated. Remaining works included part of the Ambassador's residence and auxiliary works.

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

(i) The accounting officer must at all times liaise with the National Treasury to ensure that exchequer release for budgeted projects is done on time to avoid exposing the Government to contractual liabilities

(ii) The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries.

181.3 Irregular Payment of Works

The contractor received advance payments (mobilization advance) of PKR 115,596,548 (Kshs.132,936,030) or 30% of the contract sum on 31 March 2008 which was, however, not recovered. In addition, records show that the contractor had been paid PKRs 449,324,929 (Kshs.516,723,668) at the time of termination on 30 July 2014, which is PKRs 64,003,102 (Kshs.73,603,567) above the awarded contract sum of PKRs 385,321,826 (Kshs.443,120,100). No explanation has been given for the irregularity.

Further, no retention money was recovered from all the payments made to the contractor, an indication that tax payers' monies paid may be lost.

Submission by Accounting Officer

The Ministry was advised by the State Department of Public Works that the project had suffered various setbacks including delayed payments, security lockdowns, price escalations etc. thereby giving the contractor a right to make various claims some of which were not settled in full. In view of this, the financial position of the project will be determined by the final account. Public Works has informed that finalization of the final account is in process, which will facilitate closure of this matter.

Committee Observations and Findings

The Committee noted the various setbacks that affected the project including delayed payments.

Committee Recommendations

(i) The accounting officer must at alltimes ensure that the advice of the Attorney General is sought and obtained in determination of contractual claims and counter-claims in order to safeguard public interest.

(ii) The Accounting Officer should, within three (3) months after adoption of the report, avail to the National Assembly the final account of this project for scrutiny.

181.4 Award of New Contract

The Ministry awarded another (new) contract for completion of the Kenya High Commission building and the High Commissioner's Residence on 6 February 2015 to M/s Quality Procurement and Management Services Limited at a contract sum of PKRs 99,940,881 (Kshs.90,154,670).

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Ministry awarded another (new) contract for completion of the Kenya High Commission building and the High Commissioner's Residence on

6th February, 2015 to M/s Quality Procurement and Management Services Limited at a contract sum of PKRs 99,940,881.30 (Kshs. 90,154,670.00).

181.5 Slow Progress of Works

The accounting officer stated that the works commenced on 2 March 2015 and were scheduled for completion on 5 September 2015. However, the contract period had expired as at the time of audit inspection in March 2017 but the contractor was still on site without being levied penalties in terms of recovery of the liquidated damages. Management has not given any explanation for the omission.

Submission by Accounting Officer

The project completion period was extended due to the following:

a. High level of insecurity in Islamabad which made entry into the diplomatic enclave extremely difficult. Workers had to be cleared and sometimes clearance took several weeks. Entry of workers was also very difficult and so was entry of materials. The Ministry was informed that sometimes trucks had to offload sand and any other materials at the entrance and then load again. This itself affected the project timelines as well as cost,
ii) The Monsoon rains would sometimes cause closure of site for several weeks,
iii) Long extended holidays such as Eid Al-Fitr, Ramadan among others caused disruptions in labour and obtaining new labour would take time,
iv) Delays in payments due to exchequer delays. Appendix 6.3.1-Islamabad -15/16

Extension was granted for 35 weeks effective October 2016, hence the contract was still valid by March 2017. In any case, the Contractor had already partially handed over the property in February 2017, and therefore was still on site in March attending to the snag list. Hence there was no need to render liquidated damages.

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

(i) The accounting officer must at all times liaise with the National Treasury to ensure that exchequer release for budgeted projects is done on time to avoid exposing the Government to contractual liabilities
(ii) The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries.
(iii)

181.6 Title Deed

Although the Kenya High Commission in Islamabad was allocated the land where the Chancery and Residence building stands in 1991, no reasons have been given for failure to obtain the title deed for the plot.

Submission by Accounting Officer

The Ministry was issued a certificate of possession dated 9th December, 1996 which is in file. The Mission is however following on the title deed and we expect the matter to be concluded soon.

Committee Observations and Findings

The Committee noted the explanation by the accounting officer.

Committee Recommendations

the Accounting Officer should, within three (3) months after adoption of the report, appraise the National Assembly on the progress made in acquiring the title deed.

182. Construction of Buildings for Kenya Embassy, Mogadishu, Somalia

182.1 Irregular Award of Contract

The Ministry invited nine contractors through restricted tendering to submit tenders for this project on 3 February 2015. Bids were received from M/s Bilmark Groups Limited and M/s Deeqa Construction and Water Drilling Co. whose bids were US$ 1,571,637.50 and US$ 1,766,665 respectively. Although M/s Bilmark Groups Ltd. who was the lowest evaluated bidder was disqualified on grounds that the firm was not among contractors vetted by AMISON, the contract was later awarded to the highest evaluated bidder Deeqa Construction and Water Drilling Co. which was similarly equally not among vetted companies. No explanation has been given for the inconsistency in evaluating the two bidders. In addition, information contained in a letter Ref. No. CSO/REC/ZULU PROJECT/27/NOV/2014 dated 27 November, 2014 shows that the contractor was awarded the contract before technical evaluation process was completed. In view of these circumstances, it is not possible to confirm that the award of the contract was fair, equitable, transparent, competitive and cost effective as required under Article 227(1) of the Constitution of Kenya, 2010.

Submission by Accounting Officer

Construction of embassy properties in Mogadishu was urgent since a decision had been made for the Mission to relocate from Nairobi to Mogadishu. Owning property was considered more secure and cheaper than renting, and a piece of land had already been allocated by the government of Somalia.

The contractor for this project was identified through restrictive tendering whereby nine contractors were invited to bid. Tender documents were issued to the nine firms but only two of the firms, M/s Bilmark Groups Ltd and Deeqa Construction and water drilling Co responded. Technical and financial evaluations were carried out, the outcome of which was tabled for MTC deliberations as per attached Minutes.

The award to Deeqa Construction and Water Drilling Co. was made based on MTC's recommendations and results of the security vetting conducted by AMISOM (see recommendation letter attached and marked as Annex ….

In its recommendations which were tabled in the MTC, the Evaluation committee noted shortcomings of the non-winning bidder M/S Bilmark as follows:

a) The work executed by the bidder are of very low magnitude compared to the magnitude of the proposed project, and that experience of the firm in construction works is limited,

b) The firm had been in existence for less than two years and therefore its experience in the construction industry is limited,

c) The firm was not among the ones vetted by AMISOM, and Somalia being a security sensitive country; this was considered an important consideration. In addition, the firm would have encountered challenges in accessing the construction site which is located in the AMISOM controlled area.

The letter Ref. No. CSO/REC/ZULU PROJECT/27/NOV/2014 dated 27th November, 2014 referred to in the audit query was AMISOM's recommendation after security vetting and not an award.

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries

182.2 Audit Inspection

An audit inspection of the project site on 14 March, 2017 confirmed that 38% of works had been executed against 220% of the contract period that had by then elapsed. No remedy had been undertaken to enhance progress in execution of the works. In addition, the audit established that the Kenya High Commission in Mogadishu was allocated the Chancery and Residence building land in 2015. However, no reasons have been given for failure to obtain a title deed for the plot.

Submission by Accounting Officer

The Accounting Officer stated that the delays in completion of works were occasioned, and the contractor applied for extension on the following grounds:

- Stoppage of works due to insecurity in Somalia,
- Delayed payments.

The request for extensions have been considered and approved by the project Manager – State Department of Work and subsequently duly granted by the Ministry.

It should, however, be noted that this is an extremely difficult environment that is unpredictable due to security concerns. The Contractor has on various occasions advised on closure of site due to insecurity as and when they receive security alerts from the authorities - indeed at one time the hotel where his workers were living was bombed and he lost several workers.

Title Deed Mogadishu

The government of the Federal Republic of Somalia issued a letter of allocation to the government of Kenya, but the Mission is still pursuing title to the land.

Committee Observations and Findings

The Committee noted the explanation by the accounting officer.

Committee Recommendations

(i) Ministries should develop clear criteria on building foreign missions and should consider issues of security and d Finance.

(ii) The accounting officer must at all times liaise with the National Treasury to ensure that exchequer release for budgeted projects is done on time to avoid exposing the Government to contractual liabilities.

(iii)The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries

(iv), the Accounting Officer should, within three (3) months after adoption of the report, appraise the National Assembly on the progress made in acquiring the title deed.

183. Cash and Cash Equivalents

The statement of assets reflects Kshs.1,340,665,519 cash and cash equivalents' balance and as further disclosed in Note 11 A & B to the financial statements. However, the balance includes unconfirmed amounts as follows:

183.1 Loss of Cash at Kenya Embassy Moscow

Examination of the re-current bank reconciliation statement for the month of June 2016 revealed that Kshs.149,323,311 and Kshs.28,808,743 were withdrawn from bank account numbers 40807840000000000236 and 40800781070005000095 respectively between the year 2009 and 2011. These withdrawals were not recorded in cash book. Payment documents in support of the withdrawals have similarly not been provided for audit review. In addition, the Ministry has not investigated and taken appropriate action on the loss as required under Regulation 90(3) of the Public Finance Management (National Government) Regulations, 2015.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the recurrent bank reconciliation statements for the month of June, 2016 indicated that Kshs.149, 323,311. 00 and Kshs.28,808,743.000 werewithdrawn from thebank account numbers 40807840000000000236 and40800781070005000095 respectively between the year 2009 and 2011 in Kenyan Embassy in Moscow. The Mission maintained the main cash book for bank transactions in which these withdrawals were reflected. It has been established that dollar withdrawals and payments were not properly accounted for through the main cash book mainly due to clerical errors.

The Ministry has appointed an investigation team to obtain the necessary documents, reconstruct the relevant cash books, carry out necessary reconciliations, determine whether there were financial improprieties, identify the culprits and recommend appropriate actions to be taken. The investigations are ongoing and the outcome of the same will be availed for audit verification.

Committee Observations and Findings

The Committee has noted the explanation by the accounting officer. It further noted that the Head of Mission at the material time was Ambassador Paul Kurgat.

Committee Recommendations

(i) The Accounting Officer should, Within three (3) months after adoption of the report, appraise the National Assembly on the outcome of the internal audit process.

(ii) The DCI should, within three (3) months after adoption of the report, initiate independent investigations into the matter with a view to prosecuting those found culpable.

183.2 Loss of Cash at Kenya Embassy, Juba

The cash book for the month of March 2016 shows an under cast by Kshs.5,836,500 ($58,365) against the dollar column while the column for South Sudan Pound for the same month reflects an under-cast by Kshs.170,000 (SSP 10,000). In addition, the mission transferred Kshs.13,600,000 (SSP 800,000) on 30 June 2016 from the local currency account to the dollar account resulting in a loss of Kshs.11,841,778 (SSP 696,575). A due diligence check on the exchange rate on the transaction date indicates that the rate of SSP 30 to USD 1 was applicable instead of SSP 45 to USD 1 used. No explanation has been given for the anomaly.

Submission by Accounting Officer

The Accounting Officer stated that the audit review on the Mission's cash book for the month of February 2016 considered transactions up to 28th February, 2016. The cash book page containing the transactions of the 29th February, 2016 was not covered in the audit review thereby excluding SSP 10,000 and USD 58,365 from the review totals reflected on the SSP and USD columns of the cash book.

These transactions were later appropriately incorporated into the review totals and the balances carried forward (end of February balances) to march 2016 (March opening balances) correctly entered as SSP 830,873.22 and USD 425,752.26 respectively. The end of month balances for March, April, May and June 2016 were thereafter entered correctly and consistently. The relevant extracts of the cash book have been availed for audit review.

The accounting officer stated that it was true that the Mission on 24th June, 2016 transferred SSP 800,000 from the Mission's local currency account to the USD account, both held at the KCB Bank South Sudan Ltd, to enable processing of dollar denominated payments for the Mission.

The exchange rate control regime in Southern Sudan has created wide disparities between the Central Bank official rates and the commercial Banks's transaction rates. On the day the Mission was processing the above inter account transfer, for example, the applicable transaction rate given by KCB Bank South Sudan Ltd was SSP 45 to USD 1 whereas the Central Bank official rate was SSP 30 to USD 1. It should be noted that the Mission had no option but to accept the transaction rate prescribed by the KCB Bank South Sudan Ltd.

Committee Observations and Findings

The explanation by the accounting officer was satisfactory.

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries

183.3 Misstatement of Cash and Bank Balances

The amounts disclosed under Note 11A and 11B to the financial statements in respect of cash and bank balances of Kshs.198,124,704 and Kshs.3,120,952 totaling Kshs.201,245,656 for the Ministry

Headquarters differ from the reconciled cash and bank balances of Kshs.431,067,127. No explanation or adjustment has been provided for the resulting difference of Kshs.229,821,471 between the two sets of records.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the amount reflected in the financial Statements in respect of cash and bank balances amounting to Kshs.**201, 245,656.00** for the Ministry Headquarters Recurrent, Development and Deposits differed from the cash book balances amounting to Kshs. **431,067,127.00**. The Ministry has captured the difference Kshs.**229, 821,471.00** in the following financial year 2016/17.

Committee Observations and Findings

The Committee noted that the variances were corrected in the 2016/2017 financial statement.

Committee Recommendations

The accounting officer must at all times ensure that proper explanations on issues raised by the Auditor-General plus supporting documents are provided on time to avoid audit queries

184. Bank Reconciliation Statements

184.1 Long Outstanding Reconciling Items

The bank reconciliation statements for the Ministry Headquarters for recurrent, development and deposits for the month of June 2016 reflects long outstanding reconciling items amounting to Kshs.1,000,267,272, some dating as far back as 2013 which have not been cleared. This is contrary to Regulation 90(3) of the Public Finance Management (National Government) Regulations, 2015 which requires that such discrepancies be investigated and appropriate action taken including updating the cash books.

Submission by Accounting Officer

The Accounting Officer stated that it was true the reconciliations statements for the Ministry Headquarters for Recurrent, development and deposit accounts for the month of June 2016 reflects long outstanding reconciliation items amounting to **Ksh.1,000,267,272.00** some dating as far back as 2013 which have not been cleared.

This balance has been submitted to the 'Committee on Old Balances' at The National Treasury to be resolved as part of the mandate of that committee. The Ministry is waiting for feedback from the committee in order to implement its recommendation and submit the same for audit review.

Committee Observations and Findings

The Committee noted the explanation by the accounting officer.

Committee Recommendations

The Cabinet Secretary responsible for National Treasury should,within three (3) months after adoption of the report, appraise the National Assembly on the progress of work on the Committee on Old Balances.

184.2 Payments and Receipts without Reference / Cheque Numbers

The recurrent bank reconciliation for the period ending 30 June 2016 reflects payments in cash book not in bank statement (unpresented cheques) and receipts in cash book not in the bank statement amounting to Kshs.411,169,904 and Kshs.322,093,983 respectively. Included in the unpresented cheques of Kshs.411,169,904 are payments amounting to Kshs.20,993,262 without cheque or reference numbers. Similarly, the receipts amounting to Kshs.322,093,983 have no cheque or reference numbers. In the circumstances, the validity, completeness and accuracy of the recurrent cash balance for June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that as at the time of audit review, the recurrent bank reconciliation Statement for the period ending 30th June, 2016 reflected un-presented cheques amounting to Kshs. 411,169,903.78 and unbanked receipts amounting to Kshs.322,093,982.90 out of which, payments amounting to Kshs.20,993,262.00 and receipts amounting to Kshs.322,093,983 respectively were captured without cheque or reference numbers.

At the inception/rollout of the E-Banking system in the Government, processing of payments through cheques was eliminated. The banking system however, would generate payment references automatically to facilitate the auto reconciliation procedure. Since the system generated references had no details to facilitate capturing in the cash books and bank reconciliations the CBK was requested several times but in vain to provide the details. The transactions related to the system generated references have therefore remained outstanding for a long time in the bank reconciliation statement and were therefore referred to the Committee on Old Balances for direction. The Ministry is waiting for feedback from the committee in order to implement its recommendation and submit the same for audit review.

Committee Observations and Findings

The Committee noted the explanation by the accounting officer.

Committee Recommendations

The Cabinet Secretary responsible for National Treasury should,within three (3) months after adoption of the report,, appraise the National Assembly on the progress of work by the Committee on Old Balances.

185. Transfer to Other Government Units

The statement of receipts and payments reflects payments totalling Kshs.185,303,805 in respect of transfers to Other Government Units. However, the payments have not been analyzed or supported by expenditure returns including documents to confirm receipt of the amount by the respective Government Units. As a result, the accuracy, occurrence and propriety of the expenditure could not be ascertained.

Submission by Accounting Officer

The accounting officer stated that it was true that the statement of receipts and payments reflects a total expenditure of Kshs.185, 303,805.00 captured under the item for grants / transfers to other International Organizations. These relates to education supplements issued to Missions abroad to pay for school fees in training institutions abroad. The funds are issued on quarterly basis as part of the respective Missions' quarterly disbursements.The supporting documents have been availed for audit verification.

Committee Observations and Findings

The Committee noted that the supporting documents have since been availed and reconciliations done.

The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that explanations sought by the Auditor-General plus all supporting documents are provided on time to avoid audit queries.

186. Outstanding Imprests

The statement of assets reflects a balance of Kshs.8,625,876 under accounts receivables – outstanding imprests. The balance includes long outstanding imprests amounting to KShs.1,810,111 which had not been surrendered or accounted for as of 30 June, 2016 for a period of 36 months.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Ministry had outstanding imprest amounting to **Kshs 1,810,111.00.**

This amount has since been fully recovered and/or accounted for including interest penalties where applicable.

The ministry is continuing to implement the following interventions with a view to managing imprests:-

1. Monthly deductions of the amounts un-surrendered by the defaulters.
2. Writing to ministries and other government agencies to deduct and remit the funds for transferred officers.
3. No officer is allowed to take multiple imprests before making due surrenders.

The ministry has implemented the provisions of the Public Financial Management (PFM) Act requiring interest charge on imprests as a further deterrent factor.

Committee Observations and Findings

1. The Committee noted that all outstanding imprest has since been surrendered. It further noted the new measures put in place by the ministry to manage imprest.

2. The matter was marked as resolved.

Committee Recommendations

The accounting officer must at all times ensure that explanations sought by the Auditor-General plus all supporting documents are provided on time to avoid audit queries.

10.0. MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

10.1. STATE DEPARTMENT OF EDUCATION

FINANCIAL STATEMENTS FOR VOTE 1061

Dr. Belio Kipsang, the accounting officer for Vote 1061, State Department Education appeared before the Committee on 30h January 2019 to adduce evidence on the audited Financial Statements of Vote 1061 the State Department of Education for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **Mr. H.S. Abot - Director;**
2. **Mr. Robert Osamo - SPPO;**
3. **Mr. Philip Owang - PSCMO;**
4. **Mr. Humphrey I. Masai - ACCT;and**
5. **Ms. Reginah Kanyi - DDSCMS**

Basis for Qualified Opinion

187. Cash and Bank Balances

187.1 Bank Reconciliation Statement – Recurrent Vote

The statement of financial assets as at 30 June 2016 reflects cash and cash equivalents balance of Kshs. 211,277,228 which includes recurrent bank balance of Kshs. 145,922,554. However, examination of the bank reconciliation statement for the month of June 2016 revealed the following unexplained anomalies:

i. The bank reconciliation statement for the recurrent cashbook as at 30 June 2016 reflects payments in the cashbook not in the bank statement (unpresented cheques) totaling Kshs.1,286,744,076, which includes unexplained cashbook adjustments totaling Kshs.5,981,971.
ii. The bank reconciliation statement also reflects receipts in the bank statement not recorded in the cash book totaling Kshs. 70,543,359 which have been outstanding for a long period of time. No reason has been provided for delay in updating and capturing these receipts in the cash book. Further, the reconciliation statement reflects payments in bank not posted in cash book totaling Kshs. 11,224,808. Similarly, no reason has been provided for the delay in recording these payments in the cash book.
iii. The bank reconciliation statement also reflects receipts in cashbook not in bank statement balance of Kshs. 656,633,243 which also includes an unexplained cashbook adjustment of Kshs. 12,069,712.

Consequently, it has not been possible to confirm that the cash-and-cash equivalents balance of Kshs. 211,277,228 is fairly stated.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the bank reconciliation statement for recurrent had Kshs. 1,286,744,076.40 as un-presented cheques and unexplained cashbook adjustments of Kshs. 5,981,971.02.

The unpresented cheques of Kshs 1,286,744,076.40 was necessitated by IFMIS system failure which resulted to the items paid fail to upload in the internet banking window for actual transmission as at 30th June 2016 and delay in the funding of exchequers of exchequers of Kshs. 183,000,000 and Kshs 450,000,000 which was actually received in the bank on 1st July 2016. The unpresented cheques cleared in the month of July 2016 bank statement. See attached July 2016 bank statement and reconciliation.

The cash book adjustments of Kshs 5,981,971.02 occurred as a result of cash book casting, omissions and posting errors. The same have been corrected in the month of July 2016 cash book and explanations given in the analysis attached below.

DATE	PARTICULARS	AMOUNT	EXPLANATIONS
20/04/2016	Overcast of the cash book totals folio 65	500.00	Occurred as a result of an over casting error on folio 65 sub-total which is over stated by Kshs. 500. – erroneouscash book total, 4,094,770 but correct figure is Kshs.4,094,770
21/04/2016	Overcast of the cash book totals – folio 66	6.00	Occurred as a result of a casting error by over stating the cash book folio 66 sub-total by 6.00. Correct total is Kshs 2,254,745.50 but not Kshs. 2,254,751.50 as given.
28/04/2016	Overcast of the cash book totals – folio 78	18,043.10	Occurred as a result of an erroneous over statement of the folio sub-total by Kshs 18,043.10. Correct total is Kshs. 3,851,007.00 and not Kshs. 3869050.00 as given.
29/04/2016	Overcast of the cash book totals – folio 80	226,8880.0	Occurred as a result of an over casting error on the folio sub - total. Actual figure is Kshs. 2,500,621.80 and not 2,727,421.80 as given in the cash book
29/04/2016	Surrender of unspent AIE – 3RD sept,15	33.77	Occurred due to lack of remitters detail on bank statement
29/04/2016	Surrender ofA.I.A – 18TH Sept,-16	74,200.00	Occurred due to lack of remitters detail on bank statement
11/05/2016	Error on total folio 97	50,195.00	Occurred as a result of an over casting error on the cash book folio 97 subtotal which is capturedas kshs 6,404,529.15 instead of the correct figure of kshs6,354,334.15

22/06/2016	Error on total folio 14	109,000.00	Occurred as a result of over statement of the cash book folio 14 subtotal by capturing Kshs. 4,923,730.00 as the sub total instead of the actual figure of Kshs. 4,814,730.00
30/06/2016	Over cast of the cash book total on folio 36	950.00	Occurred as a result of an erroneous over casting of the folio 36 subtotal by kshs 950.00. cash book reflects a total of kshs 13,167,841.00 while actual is Kshs. 12,166,891.00
30/06/2016	Wrong balance b/f on folio 50	2.00	Occurred as a result of cash book folio 50 sub -totalb/f over statement by Kshs. 2.00
30/06/2016	Over cast of cash book totals on folio 54	5,430,303.65	Occurred as a result of over casting folio 54 sub - total by Kshs. 5,430,303.65. cash book total given as Kshs. 56,452,837.90 instead of the correct figureof Kshs. 51,022,534.25
30/06/2016	Adjustment on an omission on folio 36	47,812.50	Occurred consequent to an omission of a single payment entry of Kshs. 47,812.50 in the cash book on folio 36 sub - total.
30/06/2016	Adjustment of under - statement on folio 36	50.00	Understatement of sub-total i.e. actual balance Kshs 13,166,891 whereas cash book balance is Kshs. 13,167,841
30/06/2016	Adjustment of an omission on folio 37	24,075.00	Occurred consequent to an omission of a single payment of Kshs. 24,075.00 in the cash book sub-total on folio 37
	TOTAL	**5,981,971.02**	

It was also true that the bank statement reflects receipts in the bank statement not recorded in the cash book totaling Kshs. 70, 543,359. The outstanding receipts were occasioned by lump sum receipting of revenues and returned cheques in the cash book and thus making it difficult to relate same to individual receipts in the bank statements. The receipts in the bank statements have since been matched with receipts in the cash book and cleared in the July 2016 bank reconciliation statement.

It was true that the bank statement reflects payments in bank not posted in cash book totaling Kshs.85, 065, 0359. This anomaly occurred due to none clearance of the corresponding payments in the cash book. Payments have since been identified and cleared accordingly in the July 2016 bank reconciliation statement.

It was true that bank reconciliation statement reflects receipts in cashbook not in bank statement of Kshs.656, 633,242.57 which included unexplained cashbook adjustment of Ksh.12, 069,712.22. The outstanding receipts were occasioned by the delay in the funding of exchequers of Kshs. 183,000,000 and Kshs 450,000,000 which were receipted in the cash book on 30th June 2016, but were actually received in the bank on 1st July 2016 and also as a result of lump sum receipting of revenues and returned cheques in the cash book which made it difficult to relate same to individual receipts in the bank statements. The receipts in the cash book have since been matched with receipts in the bank statement and cleared in the July 2016 bank reconciliation statement. See July 2016 reconciliation attached.

The cash book adjustment of Kshs 12,069,712.22 occurred due casting, omissions and posting errors in the cash book. The same have been corrected in the month of July 2016 cash book and explanations given accordingly in the analysis attached below. The ministry apologized for the anomaly and has put in place measures to ensure that accurate and updated bank reconciliation statements are prepared in future.

DATE	PARTICULARS	AMOUNT	EXPLANATIONS
04/08/2015	Opening balance	.060	Opening balance
19/02/2016	Under cast of the cashbook folio 29	8,999,990.00	Occurred as a result of a posting error on payment voucher no. 2330 on presidential award of Kshs. 10,000,000/= erroneously posted as Kshs. 1,000,000/= in the cash book consequently under - casting the folio29 sub total by a similar amount. This figure is adjusted down wards against various cents adjustments totaling to Kshs. 1/= to Kshs. 8,999,999/=
22/04/2016	Under cast of the cashbook folio 72	.065	An under cast of cents 0.65 on folio 72 occurred as a result of an erroneous under -statement of the folio subtotal in the cash book.
22/04/2016	Under cast of the cashbook folio 74	40.00	The under cast of Kshs. 40/= occurred as a result of under stating the cash book folio 74 subtotal by Kshs 40/= - cash book total given as Kshs. 11,475,572.40 while actual

			should be Kshs 11,475,612.40
29/04/2016	Under cast of the cashbook folio 83	.90	Occurred as a result of under- stating by cents 0.90 on the folio 83 sub - total.
29/04/2016	Cashbook adjustments	.020	Occurred as a result of erroneous under - statement of the cash book by cents 0.20
29/04/2016	Cashbook adjustment	4.80	Occurred as a result of an erroneous understatement of the cash book sub – totals by Kshs. 4.80.
30/06/2016	Under cast of the cashbook folio 20	.20	Resulted due to an erroneous under statement by cents 0.20 on folio 20 sub - total
30/06/2016	Under cast of the cashbook folio 32	72,9000.00	Occurred as a result of an erroneous under – statement on folio 32 sub – total due to wrong posting – Kshs 7,253, 950 erroneously posted instead of the correct and actual total which is Kshs. 7,982,950
30/06/2016	Under cast of the cashbook folio 33	600.00	Resulted due to an erroneous folio 33 sub – total under statement by Kshs.600. – Cash book total given as Kshs 7,678,550 instead of the actual and correct figure which is Kshs. 7,679,150
30/06/2016	Under cast of the cashbook folio 37	50,989.35	This anomaly occurred as a result of an under-casting error on the cash book folio 37 sub – total which indicate the sub – total as Kshs 14,200,159.70 instead of the actual which is Kshs. 14,251,149.05
30/06/2016	Wrong B/F Folio 39	2,253,108.00	The anomaly occurred as a result of an erroneous receipt balance of Kshs 375,618,716.25 mistakenly B/F as Kshs. 373,365,608.25 on folio 39, thus translating into an under cast of Kshs. 2,253,108.00
30/06/2016	Error on folio 50	100.00	Occasioned by an erroneous understatement of the payments sub-totals
30/06/2016	Under cast of the	13,612.50	Occurred as a result of a casting error on

	cashbook folio 51		the folio 51 sub- total summationwhich reflects the total as Kshs 1,724,598.40 instead of the actual and correct figure of Kshs. 1,737,760.90
30/06/2016	Under cast of the cashbook folio 52	743.85	Occurred as a result of a casting error on folio 52 sub-total which is under - stated by Kshs. 743.85. – Actual cash book balance should have been Kshs. 2,390,184.65 But not Kshs. 2,389,440.80 given.
30/06/2016	Under cast of the cashbook folio 55	21,967.35	Occasioned by a casting error on folio 55 sub-total whose actual and correct figure should have been Kshs. 69,395,010.60 and not Kshs. 69,373,043.25 as given.
30/06/2016	Under cast of the cashbook folio 56	4.00	Occasioned by an erroneous understatement of the payments sub-totals
	TOTAL	**12,069,712.22**	

Committee Observations and Findings

(i) The bank reconciliation statement for recurrent had Kshs. 1,286,744,076.40 as un-presented cheques and unexplained cashbook adjustments of Kshs. 5,981,971.02; and

(ii) The unpresented cheques of Kshs 1,286,744,076.40 was necessitated by IFMIS system failure which resulted to the items paid fail to upload in the internet banking window for actual transmission as at 30th June 2016 and delay in the funding of exchequers of exchequers of Kshs. 183,000,000 and Kshs 450,000,000 which was actually received in the bank on 1st July 2016. The unpresented cheques cleared in the month of July 2016 bank statement.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

188. Supply of Desktop Computers to Schools

The statement of receipts and payments for the year ended 30 June 2016 reflects acquisition of assets figure of Kshs.1,603,072,039 which includes an amount of Kshs.230,740,000 in respect of supply and delivery of 3,320 computers to public secondary schools. The supply of the computers was done through Tender No. NCB/MOEST/010/2015-16 which was awarded on 25 February 2016. It was further noted that the computers were delivered on 24 June 2016 and inspected on 27

June 2016. However, the list of the serialized computers availed for audit review reflected 1,107 computers resulting in a variance of 2,213 computers worth Kshs. 153,803,500 which had not been accounted for as at the time of this report.

Submission by Accounting Officer

The accounting officer stated that it was true that the full list of the serialized computers was not availed for audit review resulting in a variance of 2,213 computers worth Kshs. 153,803,500.

The Department has now attached full list of 3320 copies as per the Tender No. NCB/MOEST/010/2015-2016 which was awarded on 25th February, 2016. The serialized list contains 3 columns; column 1 has serial Nos. 1 to 1107, column 2 Nos. 1108 to 2214 and column 3 Nos. 2215 to 3320 consecutively. He stated that the Ministry regrets the omission and has hence put measures to correct the anomaly.

Committee Observations and Findings

- **(i) The supply of the computers was done through Tender No. NCB/MOEST/010/2015-16 which was awarded on 25 February 2016. The computers were delivered on 24 June 2016 and inspected on 27 June 2016. However, the list of the serialized computers availed for audit review reflected 1,107 computers resulting in a variance of 2,213 computers worth Kshs. 153,803,500 which had not been accounted for at the time of audit; and**
- **(ii) The Department has now attached full list of 3320 copies as per the Tender No. NCB/MOEST/010/2015-2016 which was awarded on 25th February, 2016. The serialized list contains 3 columns; column 1 has serial Nos. 1 to 1107, column 2 Nos. 1108 to 2214 and column 3 Nos. 2215 to 3320 consecutively.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

189. Irregular Expenditures

- i. During the year under review, the Ministry incurred expenditure totaling Kshs. 1,000,937 paid to a firm in respect of air tickets for thirteen (13) officers for travel to a retreat held from 1 February to 3 February 2016 against a budgetary provision of Kshs. 440,000. The excess expenditure of Kshs. 560,937 included an amount of Kshs. 66,892 incurred on change-of-reservation fee and refund charges for cancelled tickets. No explanation was provided for changes in reservation and how the excess expenditure of Kshs. 560,937 was financed.
- ii. Examination of payment vouchers revealed that a payment of Kshs. 1,039,900 was made in a favour of a firm on 10 March 2016 for purchase of return air tickets for two (2) officers for travel to London on 17 January 2015. However, out of this amount, Kshs. 528,000 was in respect of changes in air tickets which could have been avoided. No reason has been provided for the changes in flight details that resulted to penalties that could have been avoided.
- iii. A further payment of Kshs. 798,820 was made to a tour firm on 30 June 2016 in respect of air tickets for two (2) officials to travel to Brussels, Belgium to attend the Global Partnership for Education Meeting from 25 June to 27 June 2014. However, neither the Local Service Order nor travel itinerary for the journey were availed for audit review. In

addition, the invoice attached to the payment voucher was dated 16 June 2016, two years after the service was offered. No explanation has been provided as to why the payment was made two years after the service was offered and why the amount of Kshs. 798,820 did not form part of 2014/2015 pending bills.

Consequently, the propriety of expenditure totaling Kshs. 1,887,757 incurred on air tickets during the year under review could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that there was excess expenditure of Kshs. 560,937.00. This was incurred to avoid pending bills which may have been accumulated and the firm could have taken legal procedures against the Ministry. The change of air ticketsamount to Kshs. 66,892.00 was due to extension of the retreat to some of the officers (change of reservation).

It was true the Ministry did not give the reason why there was change of reservation but from the information of those who travelled with the Minister indicate that there was change on lecture session in the Education World Forum, London.

It was true that an amount of Kshs. 789,820.00 was paid to a Tour Firm after 2 years. This was due to misplacement of records because of the frequent transfer of Supply Chain Personnel. The amount of Kshs. 798,820.00 did not form part of 2014/2015 pending bills since Internal Auditors verification needed clear record for payments (appendix 3).

NOTE: To avoid future occurrence of extra air tickets costs due to change of reservation, the Ministry took some remedy through the Senior Chief Finance Officer who directed that any change of reservation without prior approval, the cost of the change will be borne by the concerned officer

Committee Observations and Findings

- **(i) The Ministry incurred expenditure totaling Kshs. 1,000,937 paid to a firm in respect of air tickets for thirteen (13) officers for travel to a retreat held from 1 February to 3 February 2016 against a budgetary provision of Kshs. 440,000;**
- **(ii) The resultant as excess expenditure of Kshs. 560,937 was incurred to avoid pending bills which may have been accumulated and the firm could have taken legal procedures against the Ministry. The change of air tickets amount to Kshs. 66,892.00 was due to extension of the retreat to some of the officers thereby necessitating change of reservation; and**
- **(iii)The Ministry paid an amount of Kshs. 789,820.00 was paid to a Tour Firm after 2 years. This was due to misplacement of records because of the frequent transfer of Supply Chain Personnel**

Committee Recommendations

Accounting Officers must ensure that any change of reservations are borne by respective officers unless prior approval is sort and granted

190. Expired Contract

The statement of receipts and payments for the year ended 30 June 2016 reflects a figure of Kshs.6,896,580,619 under use of goods and services which includes a sum of Kshs.696,000 in respect of maintenance of the Ministry's lifts. However, examination of the respective payment vouchers revealed that the services were rendered on an expired contract for the period between

July 2010 and June 2013. Therefore, services were rendered without a valid contract contrary to Section 88 of the Public Procurement and Disposal Act, 2015 which prescribes how tender validity periods may be extended. In the circumstance, the Ministry was in breach of Government Procedures and Regulations.

Submission by Accounting Officer

The accounting officer stated that it was true M/S AJE Elevator Engineering Company were paid Kshs.696,000 in respect of maintenance of lifts for the period between July, 2010 and June, 2013 without valid contract.

The Ministry of Lands, Housing and Urban Development is responsible for processing the contracts for lifts in Ministries and State Departments.

After the tender evaluations, the documentations and recommendations are then sent to the various Ministries for adjudication and award by the respective Tender Committees.

In this case, the documents in respect to the Ministry of Education's lifts were not received even though the Ministry of Public Works claims to have sent them.Given that lifts are a threat to people's security, the Ministry of Works would not have allowed the usage of the lifts if there was no contractor on sight.

This circumstance were reported and agreed that to enable the Ministry pay for the services, the contractor should agree on the old rates (on the previous contract 2013-2014). The Ministerial Tender Committee meeting No.16/2013-2014 held on Thursday 13th March, 2014 deliberated on the contract for lifts and approved the extension of maintenance of lifts for a period of 9 months from 1st July, 2013 to 31st March, 2014 to M/S Aje Elevators Engineering Co. Ltd, P.O. Box 48012-00100, Nairobi.

Committee Observations and Findings

(i) **M/S AJE Elevator Engineering Company was paid Kshs. 696,000 in respect of maintenance of lifts for the period between July, 2010 and June, 2013 without valid contract;**
(ii) **The Ministerial Tender Committee meeting No.16/2013-2014 held on Thursday 13th March, 2014 deliberated on the contract for lifts and approved the extension of maintenance of lifts for a period of 9 months from 1st July, 2013 to 31st March, 2014 to M/S Aje Elevators Engineering Co. Ltd, P.O. Box 48012-00100, Nairobi.**

Committee Recommendations

Accounting Officers must ensure that any change of reservations are borne by respective officers unless prior approval is sort and granted

191. Pending Bills

The Ministry had pending bills amounting to Kshs.32,000,459 as at 30 June 2016, out of which bills amounting to Kshs.31,589,959 relate to Recurrent Vote while Kshs.410,500 relate to Development Vote. The bills were carried forward to the 2016/2017 financial year. Had these bills been paid in the year under review, the statement of receipts and payments would have reflected a surplus of Kshs. 320,394,507 instead of the surplus of Kshs. 352,394,966 reflected as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry failed to settle pending bills to the tune of Kshs. 32,000,459.17. The bills formed first charge of the expenditure this financial and have in fact been settled to the tune of Kshs. 21,017,250.51 which translate to 70% of the bills leaving a balance of Kshs. 9,936,485.66. The ministry regrets this anomaly and has since put measures to avoid recurrence, i.e. the ministry has adopted the new cash plan management systems in IFMIS system. We have also gone full implementation of the procurement plan and timely procurement of goods and services.

Committee Observations and Findings

- **(i) The Ministry had pending bills amounting to Kshs. 32,000,459 as at 30 June 2016, out of which bills amounting to Kshs.31,589,959 relate to Recurrent Vote while Kshs.410,500 relate to Development Vote. The bills were carried forward to the 2016/2017 financial year; and**
- **(ii) The bills formed first charge of the expenditure the following financial and have been settled to the tune of Kshs. 21,017,250.51 which translate to 70% of the bills leaving a balance of Kshs. 9,936,485.66.**

Committee Recommendations

Accounting officers must at all times ensure that pending bills are listed as first charge in subsequent financial year when preparing estimates of expenditure and revenues of the entity in conformity with the strategic plan pursuant to the provisions of section 68(2) (h) of the Public Finance Management Act, 2012.

192. Transfers to Other Government Units

192.1 Supports for Mobile Schools

The statement of receipts and payments for the year ended 30 June, 2016 reflects a figure of Kshs. 20,151,643,838 against transfers to other government units which includes grants in support of mobile schools of Kshs. 31,376,800 disbursed to various schools. The sum of Kshs. 31,376,800 was incurred on salaries for mobile school teachers and purchase of instructional materials for 117 mobile schools in Arid and Semi-Arid areas. However, it has not been possible to establish how the various schools in the respective counties were identified and how much was given to each school as no detailed supporting schedules were availed for audit review.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Kshs.31, 376,800 was disbursed to 117 schools. Identification of the mobile schools is done in the nomadic Counties and sub counties. The schools are identified and approved by the District Education Board (DEB). However, the D.E.B must ensure the identified school meets the conditions as provided for in the Operational Guidelines for the Disbursement of Bursaries and Grants to schools and colleges of 3rd September 2012. Once the board approves, minutes for the approval are forwarded to the ministry headquarters requesting for funding.

Committee Observations and Findings

- **(i) Transfers to other government units included grants in support of mobile schools of Kshs. 31,376,800 disbursed to various schools as salaries for mobile school teachers**

and purchase of instructional materials for 117 mobile schools in Arid and Semi-Arid areas; and

(ii) It was not possible for the auditors to establish how the various schools in the respective counties were identified and how much was given to each school as no detailed supporting schedules were availed for audit review.

Committee Recommendations

(i) The Cabinet Secretary responsible for Education should, within three (3) months of adoption of this report in consultation with all relevant stakeholders, embark on developing a comprehensive framework for supporting mobile schools including recruitment of teachers and instructional materials;

(ii) Within three (3) months of the adoption of this Report, the Accounting Officer should avail to the Auditor General detailed supporting schedules for audit review.

192.2 Expenditure on Schools Co-Curricular Activities

Further, included in the transfers to other government units figure of Kshs. 20,151,643,838 is a sum of Kshs.16,355,200 expended on various co-curricular activities. Review of expenditure under the school co-curricular activities revealed that a firm was paid Kshs.1,355,200 to print badges and booklets to be used at the National Ball Games for Primary, Secondary and Special Needs Schools. However, the Ministry did not present for audit relevant procurement records showing how the firm was identified and awarded the contract. In the circumstance, it has not been possible to confirm that the expenditure totaling Kshs. 1,355,200 was a proper charge on public funds.

Submission by Accounting Officer

Printing of badges and booklets by M/S Ann Kite Technologies Kshs. 1,355,200.00

The accounting officer submitted that it was true that the Ministry did not provide document for procurement of printing of badges and booklets by M/S Ann Kite Technologies but it is now provided. The Ministry acquired the services through Quotations No. 230207 from five (5) firms pre-qualified by the Ministry as below:-

(a) BT Supplies P.O. Box 453, Nairobi.
(b) Ann Kite Technologies P.O. Box 13224-00400, Nairobi.
(c) Cashadi Logistics P.O. Box 2148-00300, Nairobi.
(d) Kenhill Technologies P.O. Box 22145-00200, Nairobi.
(e) Shepherd Technologies P.O. Box 14200-00100, Nairobi.

The quotations were evaluated and Ann kite was evaluated the lowest bidder and awarded the contract.

Committee Observations and Findings

The Accounting Officer failed to provide document for procurement of printing of badges and booklets by M/S Ann Kite Technologies at a cost Kshs. 1,355,200.00. This contravened Section 9(1e) of the Public Audit Act 2015 which gives the Auditor-General and his/her authorized officers unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents;

Committee Recommendations

The Accounting Officer should ensure that the entity provides timely unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents to the Auditor-General and his/her authorized officers in line with Section 9(1e) of the Public Audit Act 2015.

193. Overpricing of Goods

The statement of receipts and payments for the year ended 30 June 2016 reflects figures of Kshs.20,151,643,838 and Kshs.6,896,580,619 under transfers to other government units and use of goods and services respectively, which include goods procured from various suppliers worth Kshs.21,756,320. Examination of records however, revealed that the Ministry procured goods at prices that were far much higher than prevailing market prices resulting in overpricing of goods by Kshs. 5,147,465. This contravened Section 54 of the Public Procurement and Disposal Act, 2015 which stipulates that standard goods, services and works with known market prices shall be procured at the prevailing market price. **In the circumstance, it is not possible to confirm that goods worth Kshs. 21,756,320 were competitively procured.**

Submission by Accounting Officer

The market survey price does not include the delivery cost such as transportation. Making of furniture such as executive mahogany table depends on how the wood has been treated and also design. Laptops and computers depend on specifications for example the type of the software installed. The current market survey from Victoria Furniture is herewith attached for comparison:-

No	Item Description	Market Survey	Our Prices	Comments
1.	Executive Mahogany Desk	Depends on size, but MTC show KES.185,000	144,000	Price depends on design type of wood, delivery cost and specification e.g. transportation cost as compared to market survey price.
2.	Four Way Workstation	KES.104,160 From MIBM for Tender number MOE/GPE/04/2016-17.	109,300	Prices depends on wood, design and delivery cost and specification e.g. transportation.
3.	High Back Leather Chair	KES.34,202.00 (PPOA)	37,090.00	Price depends on the type of wood used delivery cost and specification e.g. transportation cost as compared to market survey prices.
4.	Ups	KES.10,985, KES.14,500, Tender number	14,500.00	Prices depends on specifications, delivery cost e.g. transportation cost

		MOEST/NCB/ 10/2015/16		or importation cost.
5.	Executive Mahogany Conference Table	Depends on size. Open tender price Kshs. 185,000.	296,000.00	Price depends on specification; mahogany wood depends on treatment and design and delivery cost e.g. transportation cost.
6.	High Back Leather Chair	KES.25420.00 from viable deco.	37,000.00	Prices depend on type of wood used, specification, delivery cost e.g. transportation cost.
7.	HP Printers	Open tender price - KES. 72,200.00	68,000.00	Prices depend on specification and delivery cost and e.g. transportation cost as compared to prices of market survey.
8.	Laptops	Depends on specifications	79,000.00	Prices depend on specification, delivery cost and e.g. transportation cost as compared to market survey prices.
9.	Desktop	Open tender price without software, KES.51,000.00	78,000.00	Prices depend on specification e.g. software and delivery cost e.g. transportation cost as compared to market survey prices.
10.	Tyres. 265/65/17	KES. 43,484.62.	44,000.00	Prices depend on make and specification e.g. Michelin, Yana and other types as may be prescribed.
11.	LCD Projector	Open tender Price KES 48,813.79	54,970.00	Depends on specification, delivery cost e.g. transportation cost.

Committee Observations and Findings

(i) **The Ministry procured goods at prices that were far much higher than prevailing market prices resulting in overpricing of goods by Kshs. 5,147,465. This contravened Section 54 of the PPAD Act, 2015 which stipulates that standard goods, services and works with known market prices shall be procured at the prevailing market price.**

(ii) **The quarterly market price index issued by the PPRA under Section 54(3) of the PPAD Act 2015 is the reference guide to assist accounting officers makes informed price decisions and not price quotations from partisan suppliers such as Victoria Furniture as submitted by the Accounting Officer.**

Committee Recommendations

(i) **The EACC should within three (3) months of adoption of this report investigate the procurementof goods at prices that were far much higher than prevailing market prices resulting in overpricing of goods by Kshs. 5,147,465contrary to the provisions of Section 54(2) of the PPAD Act 2015; and**
(ii) **All Accounting Officers must at all times use the quarterly market price index issued by the PPRA under Section 54(3) of the PPAD Act 2015 as the reference guide to assist them makes informed price decisions and not price quotations from partisan suppliers such as Victoria Furniture as was submitted by the Accounting Officer.**

194. Unconfirmed Delivery of Goods

The statement of receipts and payments for the year ended 30 June 2016 reflects a figure of Kshs. 6,896,580,619 in respect of use of goods and services which includes an amount of Kshs. 10,620,600 in respect of various items procured by the Ministry from various suppliers. Although the respective payment vouchers were supported by local purchase orders (LPO's), counter receipt vouchers (S13), invoices and requests for quotations, no supporting stores records such as ledger cards and issue vouchers were availed for audit review. Consequently, it has not been possible to confirm the propriety of expenditures totaling Kshs. 10,620,600 incurred on various items during the year under review.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry did not provide evidence of the receipt on good procured to ascertain their accountability.

Committee Observations and Findings

(i) **The Ministry spent an amount of Kshs. 10,620,600 in respect of various items procured from various suppliers;**
(ii) **Although the respective payment vouchers were supported by local purchase orders (LPO's), counter receipt vouchers (S13), invoices and requests for quotations, no supporting stores records such as ledger cards and issue vouchers were availed for audit review.**

Committee Recommendations

The EACC should within three (3) months of adoption of this report investigate the expenditure ofKshs. 10,620,600 in respect of various items procured from various suppliers and failure to provide evidence of the receipt of good procured to ascertain their accountability contrary to the provisions of Article 201(a) Constitution on accountability of public finances.

195. Audit of Secondary Schools

The statement of receipts and payments for the year ended 30 June, 2016 reflects subsidies figure of Kshs.30,258,894,767 which includes an amount of Kshs.29,891,807,844 in respect of Free Day Secondary Education (FDSE) funding that was disbursed to various secondary schools. An audit inspection carried out on the Public Day Secondary Schools in Nairobi and Kiambu counties revealed the following unsatisfactory matters:

195.1 Rent Arrears

Examination of schools records revealed that nine (9) secondary schools had outstanding rent arrears amounting to Kshs. 6,733,037 due from teachers and other members of staff. It was however noted that the schools had not put in place appropriate measures to recover the arrears. As at March, 2017 some of the schools had made recoveries totaling Kshs. 2,594,053 leaving an outstanding balance of Kshs. 4,138,984 in six (6) schools as detailed below:

No.	School	Amount (Kshs.)	Cleared(Kshs.)	Balance(Kshs.)
1	Nairobi School	394,255	246,108	148,147
2	Mang'u High	986,500	435,000	551,500
3	Jamhuri High school	3,842,882	1,371,945	2,470,937
4	Alliance Boys	146,000	21,000	125,000
5	Dagoretti High	160,000	124,000	36,000
6	Kenya High	1,203,400	396,000	807,400
TOTAL		**6,733,037**	**2,594,053**	**4,138,900**

It was not clear if and when the outstanding balance of Kshs. 4,138,984 will be cleared.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that as at the time of audit review, the institutional debtors stood at Kshs. 6,733,037. The status has since changed through on-going recoveries and the current status on clearance of rent arrear owed by schools and outstanding balances for each school are shown in the table below. The supporting documents for financial records such as receipts are available at the Ministry Headquarters for audit verification.

School	**Amount**	**Cleared**	**Balance**
	Kshs.	**Kshs.**	**Kshs.**
1. Nairobi School	148,147.00	49,907.00	98,240.00
2. Mangu High	551,500.00	431,500.00	120,000.00
3. Jamhuri High	2,470,937.00	424,000.00	2,046,937.00
4. Alliance Bo	125,000.00	71,000.0054,000.00	
5. Dagoretti High	36,000.00	36,000.00	-
6. Kenya High	807,400.00	807,400.00-	
TOTAL	**4,138,984.001,819,807.002,319,177.00**		

Committee Observations and Findings

(i) **Examination of schools records revealed that nine (9) secondary schools had outstanding rent arrears amounting to Kshs. 6,733,037 due from teachers and other members of staff as at the time of audit. As at March, 2017 some of the schools had made recoveries totaling Kshs. 2,594,053 leaving an outstanding balance of Kshs. 4,138,984 in six (6) schools; and**

(ii) **The six schools have managed to collect Kshs1,819,807.00 while a balance of Kshs. 2,319,177.00 remains outstanding. The Accounting Officer has not demonstrated efforts the Ministry is putting in place to ensure all debtors are collected by the schools.**

Committee Recommendations

(i) **The Cabinet Secretary responsible for education should within three (3) months of tabling and adoption of this report issue a guideline that mandates the head teachers of all schools to ensure that teachers and other members of staff who stays in school houses commit to use salary check-off system to pay rent due as a prerequisite for continued stay in school houses ; and**

(ii) **The Accounting Officer should, within three (3) months of adoption of this report, issue reprimand letters to all teachers and other staff who have rent arrears. Failure to pay rent in time by teachers and other staff who are paid house allowance amounts to improper enrichment contrary to the provisions of Section of POE Act 2003.**

195.2 Institutional Creditors

Examination of records maintained by ten (10) schools revealed that there were accumulated creditors totaling Kshs. 52,995,406 as at 30 June, 2016. Review of the creditors' balances in March 2017 revealed that some schools had settled debts totaling Kshs. 42,186,733 leaving an outstanding balance of Kshs. 10,808,674 as detailed below:

No.	School	Amount (Kshs.)	Cleared (Kshs.)	Balance (Kshs.)
1	Kamukunji Secondary	1,516,102	100,000	1,416,102
2	Moi Forces Academy	7,785,346	2,067,480	5,717,866
3	Alliance Boys	9,633,862	9,633,862	-
4	Lenana High School	11,163,833	11,163,833	-
5	Dagoretti High	1,262,647	-	1,262,647
6	Kenya High	353,272	-	353,272
7	Mangu High	16,396,673	16,396,673	-

8	Pangani Girls	1,215,439	-	1,215,439
9	Ngara Girls	3,035,793	2,192,445	843,348
10	Langata High	632,440	632,440	-
TOTAL		**52,995,406**	**42,186,733**	**10,808,674**

The accounting officer stated that it was not clear and no satisfactory explanation had been provided for failure to promptly pay for goods procured thus causing debts to remain outstanding for long periods of time.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the outstanding figure for institutional creditors stood at Kshs. 10,808,674 as at the time of review of our financial statements. The current status on clearance of outstanding creditors balance by schools and supporting documents such as payment vouchers, counterfeit cheque bank payment vouchers and bank statements are available at the Ministry headquarters for audit verification.

School	Amount	Cleared	Balance
Kshs.	**Kshs.**	**Kshs.**	**Kshs.**
1. Kamukunji S	1,416,102.00	-	1,416,102.00
2. Moi F. Acad	5,717,865.50	5,717,865.50	-
3. Dagoretti High	1,262,647.00	830,763.00	431,884.00
4. Kenya High	353,272.00	353,272.00	-
5. Pangani	1,215,439.00	1,215,439.00	-
6. Ngara Girls	843,348.00	843,348.00	-
TOTAL	**10,808,673.50**	**8,607,415.50**	**1,847,986.00**

Committee Observations and Findings

The outstanding figure for institutional creditors stood at Kshs. 10,808,674 as at the time of audit review of our financial statements. The total outstanding balances has reduced to Kshs. 1,847,986.00;

Committee Recommendations

The Accounting Officer Should, within three (3) months of adoption of this report, submit to the Auditors for audit review all supporting documents such as payment vouchers, counterfeit cheque bank payment vouchers and bank statements to ascertain the true position of these institutional creditors

195.3 Alliance High School

Examination of procurement records during the year under review indicated that the school awarded two contracts for supervision of construction of student's main hostel and the proposed wall and gate house to private architects instead of engaging the services of Ministry of Public Works as is the practice with Government projects. No satisfactory explanation was provided as for the appointment of the private architects and how they were procured to supervise the two school projects. Further, examination of payment records reveals that a sum of Kshs. 7,309,037 was paid as consultancy fees to the said firm as at 30 June 2016. In the circumstances, it has not been possible to confirm that the sum of Kshs. 7,309,037 was a proper charge to public resources.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that payment records reveal that a sum of Kshs. 7,309,037was paid as consultancy fees to the said firm as at 30 June 2016. It has been the tradition of the school to engage old students for consultancy services. In these circumstances the school engaged them for the services. However, the boards of management have since changed and have now sought for the services of the Public County Directorate of Public Works**.**

Committee Observations and Findings

(i) Alliance High School awarded two contracts for supervision of construction of student's main hostel and the proposed wall and gate house to private architects instead of engaging the services of Ministry of Public Works as is the practice with Government projects; and

(ii) The school spent a sum of Kshs. 7,309,037 as consultancy fees the private architects as at 30 June 2016.

Committee Recommendations

(i) The Board of Managements and Heads of all public schools should at all times utilize the services of government public works department ins architectural designs and supervision of school projects unless otherwise authorized by law;

(ii) Within three (3) months of adoption of this report, the Accounting Officer in consultation with the relevant stakeholders including Schools Heads Association embark on continuous capacity building programme on public finance management including PPAD Act 2015 for Boards of Management and Heads of Schools.

195.4 Jamhuri High School

Examination of rent records on staff quarters revealed that some members of staff had outstanding rents amounting to Kshs. 3,842,882 as at 30 June 2016. However, the balance excludes unquantified rent arrears due from two officers who occupy two staff houses. Examination of Board of management minutes and other related correspondences indicated that indeed the two houses belonged to Jamhuri High school but had been alienated by other parties. Further, examination of the school records revealed that the school had leased land to a garage owner for the purpose of setting up garages along Limuru Road at an annual rental fee of Kshs. 1,800,000. Physical verification revealed that indeed some Jua Kali sheds had been erected on the leased land for the purpose of repairing motor vehicles. However, examination of receipts records reveal that the lessee had not paid annual rent totaling Kshs.2,700,000 for the period of 18 months with effect from October 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Jamhuri high school staff members had outstanding rent of Kshs. 3,842,882 as at 30 June 2016 and that the school had leased land to a garage owner for the purpose of setting up garages along Limuru Road at an annual rental fee of Kshs.1,800,000. Further the leasee had not paid annual rent totaling Kshs. 2,700,000 for the period of 18 months with effect from October 2015. After follow up the school management managed to repossess the land and have now taken measures to secure the school land by erecting a perimeter wall. We regret the anomaly.

Committee Observations and Findings

- **(i) Examination of rent records on staff quarters revealed that some members of staff had outstanding rents amounting to Kshs. 3,842,882 as at 30 June 2016;**
- **(ii) The school had leased land to a garage owner for the purpose of setting up garages along Limuru Road at an annual rental fee of Kshs. 1,800,000; and**
- **(iii)The leasee had not paid annual rent totaling Kshs. 2,700,000 for the period of 18 months with effect from October 2015. After follow up the school management managed to repossess the land and have now taken measures to secure the school land by erecting a perimeter wall.**

Committee Recommendations

- **(i) The Cabinet Secretary responsible for education should, within three (3) months of tabling and adoption of this report, issue a guideline that mandates the head teachers of all schools to ensure that teachers and other members of staff who stays in school houses commit to use salary check-off system to pay rent due as a prerequisite for continued stay in school houses;**
- **(ii) The Accounting Officer should, within three (3) months of adoption of this report, issue reprimand letters to all Jamhuri High School teachers and other staff who have rent arrears. Failure to pay rent in time by teachers and other staff who are paid house allowance amounts to improper enrichment contrary to the provisions of Section of POE Act 2003; and**
- **(iii)The Committee commends the Board of Management of Jamhuri High School for repossessing the land and taking measures to secure the school land by erecting a perimeter wall.**

195.5 Pangani Girls High School

Examination of expenditure documents revealed that a sum of Kshs. 2,800,000 was paid as out-of-pocket allowance to non-teaching staff for an educational trip as a token of appreciation for good work done in 2015. However, no supporting documents such as signed schedules by the payees as well as approval for the same were availed for audit review. In the absence of the signed schedules and other support documents, it has not been possible to confirm the propriety of expenditure totaling Kshs. 2,800,000.

Further, examination of the school's correspondence files revealed that Kshs. 2,084,704 was paid to a supplier in the year 2014 for supply of an electric generator. However, no relevant documents showing how the firm was identified and awarded the contract were availed for audit review. Physical verification revealed that the generator did not function since the time of installation. Although the management was aware of the anomaly, it provided no evidence of the steps it had taken to recover the amount paid from the supplier. In the circumstance, the school did not get value for its resources and the expenditure of Kshs. 2,084,704 was not a proper charge on public resources.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Kshs. 2,800,000 was paid as out-of-pocket allowance to non-teaching staff for an educational trip as a token of appreciation, and that Kshs. 2,084,704 was paid to a supplier in the year 2014 for supply of an electric generator. The school has been able to purchase a new and bigger generator and is now in the process of boarding the old generator. Documents attached as at last year's audit and the BOM has not disposed the generator yet.

Committee Observations and Findings

- **(i) Pangani Girls High School paid sum of Kshs. 2,800,000 as out-of-pocket allowance to non-teaching staff for an educational trip as a token of appreciation for good work done in 2015. However, no supporting documents such as signed schedules by the payees as well as approval for the same were availed for audit review;**
- **(ii) The school's correspondence files revealed that Kshs. 2,084,704 was paid to a supplier in the year 2014 for supply of an electric generator. However, no relevant documents showing how the firm was identified and awarded the contract were availed for audit review. Physical verification revealed that the generator did not function since the time of installation**
- **(iii)The Accounting Officer did not provided evidence of the steps the school had taken to recover the amount paid from the supplier of the non-functional generator. The school did not get value for its resources and the expenditure of Kshs. 2,084,704 was not a prudent and responsible use of public funds;**
- **(iv)The school has committed additional public funds in the purchase a new generator and is now in the process of bonding the non-function generator which was purchased at Kshs. 2,084,704**

Committee Recommendations

- **(i) The EACC should, within three (3) months of adoption of this report, investigate the then Principal, Pangani Girls High School and Members of Board of Management for incurring an expenditure of Kshs. 2,084,704 on non-functional generator without following the laid down procurementlaws and regulations;**
- **(ii) The Accounting Officer should, within three (3) months of adoption of this report, ensure that the Principal and Board of Managements of Pangani Girls High School stop the processing of bonding of the non-function generator which was purchased at Kshs. 2,084,704 and instead recover the full amount from the supplier; and**
- **(iii)Accounting Officer should, within three (3) months of adoption of this report, in consultation with the relevant stakeholders including Schools Heads Association embark on continuous capacity building programme on public finance management including PPAD Act 2015 for Boards of Management and Heads of Schools.**

196. Unresolved Prior Year Matters

196.1Current Grants, and Transfers to Government Agencies and other Levels of Government

As reported in 2013/2014 financial year, included in other grants and transfers figure of Kshs.67,003,247,753 is a sum of Kshs.65,369,305,403 in respect of current grants and transfers to government agencies and other levels of government. Included in Kshs.65,369,305,403 figure are disbursements totaling Kshs.21,524,382,508 to seventeen (17) sampled Universities and other government agencies out of which the institutions confirmed to have received Kshs.21,392,812,896. The resultant variance of Kshs. 131,569,612 had not been explained as at the date of this report. Consequently, it has not been possible to ascertain the propriety of the disbursements totaling Kshs. 131,569,612.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments for 2013/2014 financial year reflects Kshs. 67,003,247,753.00 under grants and transfers to other levels of government. Included in the Kshs.65,369,305,403.00 are disbursements totaling Kshs.21,524,382,508.00 to seventeen sampled universities and other government agencies out of which only Kshs.21,305,546,361.00 was confirmed received. The resultant variance of Kshs. 218,836,147.00 was occasioned by inaccuracy in reporting by some institutions and unconfirmed returns. The status of the confirmed figures is as per the table here below:-

Head	**Institution**	**Net Expenditure**	**Confirmed**	**Variance**	**Remarks**
0006	KNATCOM	113,432,744	106,000,000	7,432,744	Variances was a cancelled order
0021	KISE	56,074,349	96,311,202	(40,236,853)	Corrected J/E attached and copy of Appropriation
0078	Tech. Uni. Kenya	1,040,500,000	1,040,500,036	(36.00)	Confirmed directly through letter Ref:AGC/1/8/Vol.VII(403)
0080	Univ. Of Nairobi	6,256,215,053	6,256,215,054	(1.00)	Rounding difference
0081	Kenyatta Uni.	3,785,791,190	3,817,484,384	(31,683,194)	Included CBA returned from JAB the financial statement of the University
0083-01	JKUAT	2,061,622,625	2,159,415,654	(97,793,029)	Combined recurrent and development, PAUSTI and open university

0083	Kirinyaga Univ.	248,067,300	259,297,300	(11,230,000)	Included the June 2013 capitation that was received early July to the capitation for 2013/2014
0083-10	Coop. Univ.	265,362,500	252,605,963.7	12,756,536.3	The college has confirmed Kshs.265,362,500 letter CUCK/A/6((A) VOL.V/30
0085	Moi Univ.	3,328,458,900	3,378,248,000	(49,789,100)	Confirm receipt of Kshs.3, 314,067,367.00 through letter Ref:MU/FIN/PS/VOL.6 (38) Dated 4Th Nov.2015. Bal.14,391,533 was disbursed to Rongo University college
0105	Laikipia Univ.	516,429,550	524,669,878	(8,240,328)	Mixed CBA receipts from JAB with those from the Ministry
0106	Dedan Kimathi	512,580,650	512,580,655	(5.00)	Error from the institution
0111	Univ. Of Eldoret	1,148,354,000	1,148,396,881.35	(42,881.35)	The college has confirmed Kshs1,148,353,999.95 letter UoE/VC/MEST/63
	Total	**5,771,185,600**	**5,816,501,378**	**-45,315,778**	

Committee Observations and Findings

Members were informed that the query was resolved in the FY 2014/2015

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

198. Recurrent Vote

The budget performance analysis for recurrent vote budget totaling Kshs. 58,721,404,875 is tabulated as follows:

Expense Item	Final Budget Kshs.	**Actual on Comparable Basis Kshs.**	**Budget Utilization Difference Kshs.**	**% of Utilization Difference to Final Budget**
Compensation of Employees	3,331,285,506	3,357,427,470	26,141,964	101%
Use of goods and services	6,030,261,566	5,659,694,364	-370,567,202	94%
Subsidies	30,261,823,859	30,258,894,767	-2,929,092	100%
Transfers to Other Government Units	18,933,802,414	18,474,823,991	-458,978,423	98%
Other grants and transfers	30,476,000	13,564,942	-16,911,058	45%
Social Security Benefits	15,000,000	14,669,706	-330,295	
Acquisition of Assets	118,755,530	85,258,199	-33,497,331	72%
Total	**58,721,404,875**	**57,864,333,440**	**857,071,436**	**99%**

The analysis shows that the absorption rate of other grants and transfers was at 45%, an indication that the Ministry had either over-budgeted on this component or did not offer the envisaged services during the year. Further, the Ministry underutilized the budget on acquisition of assets by Kshs. 33,497,331 which implies some planned goods and/or services were not delivered.

Submission by Accounting Officer

There was no response in the submissions.

Committee Observations and Findings

(i) **Ministry underutilized the budget on acquisition of assets by Kshs. 33,497,331 which implies some planned goods and/or services were not delivered; and**
(ii) **The absorption rate of other grants and transfers was at 45%, an indication that the Ministry had either over-budgeted on this component or did not offer the envisaged services**

Committee Recommendations

The Accounting Officer should ensure that the Ministry prepares a realistic budget and annual implemenation work plan to increase the levels of absoprtion. Further, there is need for timely release of exhequer by the National Tresaury to reduce low absorption of development funds

199. Development Vote

The budget performance analysis for the Development vote budget totaling Kshs. 8,405,782,657 is tabulated below:

Expense Item	Final Budget Kshs.	Actual on Comparable Basis Kshs	Budget Utilization Difference Kshs	% of Utilization Difference to Final Budget
Compensation of Employees	45,000,000	-	-45,000,000	0%
Use of goods and services	1,939,668,682	1,236,886,254	-702,782,428	64%
Transfers to Other Government Units	5,723,971,503	1,676,819,847	-4,047,151,656	29%
Acquisition of Assets	697,142,472	1,517,813,840	820,671,368	218%
Total	**8,405,782,657**	**4,431,519,941**	**-3,974,262,716**	**53%**

From the analysis, the Ministry under-utilized the development budget on Use of Goods and Services and Transfers to Other Government Agencies by 36% and 71% respectively, an indication that planned development projects were not realized, which result affected delivery of goods and services to citizens adversely.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the ministry failed to utilize development budget to the tune of Kshs. 3,974,262,716 equivalent to 47%. This was due to a number of reasons;

1. Under GPE the ministry had budgeted Kshs. 3B which was a grant in form of revenue, however, the donor failed to utilize budget to the tune of Kshs. 2.7B hence no absorption was captured.
2. Under Northern Corridor Secretariat the ministry received a supplementary budget of Kshs. 248M which was to be a contribution east African member states. Expenditure was not made due to tender non responsiveness on offering of International Consultancy Services. And since it was towards the end of the year we were time bad in making another advertisement
3. The other reason was because the ministry did not receive exchequer to the tune of Kshs. 600M therefore could not meet the expenditure of the same.

Committee Observations and Findings

(i) Ministry under-utilized the development budget on Use of Goods and Services and Transfers to Other Government Agencies by 36% and 71% respectively, an indication

that planned development projects were not realized, which result affected delivery of goods and services to citizens adversely; and

(ii) The ministry did not receive exchequer to the tune of Kshs. 600M therefore could not meet the expenditure

Committee Recommendations

The Accounting Officer should ensure that the Ministry prepares a realistic budget and annual implemenation work plan to increase the levels of absoprtion. Further, there is need for timely release of exhequer by the National Tresaury to reduce low absorption of development funds.

200. Land Ownership

Audit inspection revealed that three (3) months schools; St. George's Primary School, Kamukunji Secondary School and Highway Secondary School in Nairobi County stand on land whose ownership documents were not availed for audit review contrary to the Presidential directive that school land ownership documents be processed and registered in the names of school committees and management boards.

Further, it was established that part of Buruburu Girls School land was encroached on by a private developer and the matter is under litigation in the High Court of Kenya. In addition, it was also noted that the Kamukunji High school land was occupied by squatters illegally. Although the school management was aware of the squatter's presence, there was no evidence of steps having been taken to safeguard the institutions' land. Consequently, ownership of the school land could not be ascertained as at the time of audit.

Submission by Accounting Officer

The Accounting Officer stated that it was true thatownership documents for the abovementioned schools were not availed and that some were encroached by private developer. The process of acquiring titles for the schools is in process. As for Buru Buru Girls School land, this matter is currently under litigation at the Milimani Commercial Courts vide case Nos. HC ELC 514 OF 2010 and HC ELC 251 of 2010. See the attached detailed sequence of the events and actions having been taken.

Committee Observations and Findings

(i) Audit inspection revealed that three (3) months schools; St. George's Primary School, Kamukunji Secondary School and Highway Secondary School in Nairobi County stand on land whose ownership documents were not availed for audit review. The schools lacktittle deeds and process of acquiring titles for the schools is in progress;

(ii) Part of Buruburu Girls School land is already encroached by a private developer and the matter is under litigation in the High Court of Kenya. In addition, Kamukunji High school land was occupied by squatters illegally; and

(iii) The national Land Commission estimates that out 29,404 public schools in Kenya, 24,405 (or approximately 83 percent) did not have tittle, 16,172 (or approximately 55 percent) have not been surveyed at all, 12,055 (or approximately 41 percent) are at risk of encroachment and grabbing, and 4,100 (or approximately 14 percent) have reported land grabbing/contestation cases.

Committee Recommendations

The Cabinet Secretary for National Treasury should,within three (3) months of adoption of this report, ensure that adequate budget is allocated to the National Technical Working Group on Public Schools Titling programme to ensure all public schools are secured through fencing and have title deeds.

FOOD ASSISTANCE TO PRIMARY AND PRE-PRIMARY SCHOOLS IN ARID AND SEMI ARID AREAS AND DISADVANTAGED URBAN CHILDREN (WFP) PROJECT NO. CP 200680

Basis for Adverse Opinion

216. Unsupported Receipts

The statement of receipts and payments for the year ended 30 June 2016 reflects proceeds from domestic and foreign grants figure of Kshs.1,144,003,038 and disclosed under note 8.3 as grants in kind relating to food and rations to the Ministry of Education. However, records at the parent Ministry reflect a figure of Kshs. 445,000,000 resulting in a difference of Kshs. 699,003,038 and which the management has not explained or reconciled. In the circumstance, it has not been possible to confirm the accuracy and validity of receipts of Kshs. 1,144,003,038.

Submission by Accounting Officer

The Accounting Officer submitted that it is true that the receipt and payments for the year ended on the 30th of June 2016 reflects other grants and payment figures of Ksh.1,444,003,038 while the Ministry's ledger reflects a figure of Ksh.445,000,000.The figure Ksh.1,144,003,038.00 represents the total AIA disbursed to School Meals Programme for the financial year 2015/2016.The figure is arrived at after converting USD 11,315,313.00 at an exchange rate of USD 101.1022 which was the prevailing as at 30th of June,2016.The figure Kshs. 445,000,000.00 however represents total AIA which could be absorbed as per the budget allocation. Attached is the WFP AIA returns and Budget extract.

Committee Observations and Findings

(i) **The receipt and payments for the year ended on the 30th of June 2016 reflected other grants and payment figures of Ksh. 1,444,003,038 while the Ministry's ledger reflects a figure of Ksh.445,000,000 resulting in a difference of Kshs. 699,003,038 and which the management did not explain or reconcile at time of audit; and**
(ii) **The figure Ksh.1,144,003,038.00 represented the total AIA disbursed to School Meals Programme for the financial year 2015/2016.The figure was arrived at after converting USD 11,315,313.00 at an exchange rate of USD 101.1022 which was the prevailing as at 30th of June,2016;**

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

217. Unaccounted for District Expenditures

The statement of receipts and payments as at 30 June 2016 reflects an expenditure of Kshs. 988,434,698 under purchase of goods and services. However, the amount of Kshs.988,434,698 includes AIEs totaling Kshs.108,386,807 issued during the year to District Education Officers in Arid and Semi – Arid areas for various activities but only expenditure returns totaling Kshs.107,995,126 were availed for audit review. The resultant variance in expenditure returns totaling Kshs. 391,681 had not been accounted for.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments as at 30th of June 2016 reflects on expenditure of Ksh. 988,434,698.00 under purchase of goods and services included in the figure of Ksh. 988,434,698.00 are AIEs totaling Ksh. 108,386,807.00 which were issued during the year to District Education Officers in the Arid and Semi-arid areas(ASALs) for various activities but only an expenditure of Ksh.105,101,687.00 was availed review. The resultant variance in expenditure returns totaling to Ksh. 3,245,605.20 had not been accounted for or explained as at 30th June 2016. More returns have been received to date and the outstanding figure is now down to Kshs. 391,681.20. Attached is a schedule of the returns. The accounting officer noted that they may end up recovering the amount of Kshs. 391,681.20 from the officers

Committee Observations and Findings

The statement of receipts and payments as at 30th of June 2016 reflects on expenditure of Ksh. 988,434,698.00 under purchase of goods and services included in the figure of Ksh. 988,434,698.00 are AIEs totaling Ksh. 108,386,807.00 which were issued during the year to District Education Officers in the Arid and Semi-arid areas (ASALs) for various activities but only an expenditure of Ksh. 105,101,687.00 was availed review. The resultant variance in expenditure returns totaling to Ksh. 3,245,605.20 had not been accounted for or explained as at 30th June 2016.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and timely reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

218. Unreconciled Food Records and Expenditure

The statement of receipts and payments for the year ended 30 June 2016 reflects other grants and transfers and payments' figures of Kshs. 1,144,003,038, whose breakdown is transfer of 12,620,667 metric tonnes of food commodities amounting to Kshs. 885,928,652, cash to schools in Samburu, Nairobi and Tana River Counties totaling Kshs. 195,753,170 and cash to support capacity building of Kshs. 62,321,215. However, available records at the Ministry indicate that 4,461,711 metric tons of food commodities valued at Kshs. 319,096,707 were distributed to various schools during the year under review. The resultant difference of 8,158.956 metric tons of food commodities valued at Kshs. 566,831,946 has not been accounted for as at the time of this audit. In addition, documentary evidence in support of cash transfer of Kshs. 195,753,170 to schools in Samburu, Nairobi and Tana River Counties and Kshs. 62,321,215 in support of capacity building has not been availed for audit review. In the circumstances, the accuracy and completeness of food commodities estimated at Kshs. 566,831,946 and an expenditure totaling Kshs. 268,074.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments for the year ended 30 June 2016 reflects other grants and transfers and payments figures of Kshs. 1,144,003,038, whose breakdown is transfer of 12,620,667 Metric tons of food commodities amounting to Kshs. 885,928,652, cash to schools in Samburu, Nairobi and Tana River Counties totaling Kshs. 195,753,170 and cash to support capacity building of Kshs. 62,321,215. However, available records at the Ministry indicate that 4,461,711 metric tons of food commodities valued at Kshs. 319,096,707 were distributed to various schools during the year under review. The resultant difference of 8,158.956 Metric tons of food commodities valued at Kshs. 566,831,946 has not been accounted for as at the time of this audit. In addition, documentary evidence in support of cash transfer of Kshs. 62,321,215 in support of capacity building has not been availed for audit review. In the circumstances, the accuracy and completeness of food commodities estimated at Kshs. 566,831,946 and expenditure to totaling Kshs. 268,074,385 could not be ascertained

According to the agreement between WFP and the Ministry, the primary transportation (Transporting of food from point of origin the sub-counties) is shared responsibility. The record of 4,461.70 Metric tons constitutes what the Ministry transported to the sub-counties. The resultant difference of Ksh. 8,158.9 Metric tons of food commodities valued at Ksh. 566,835,945.53 not accounted for was what was transported by WFP and the food allocation is attached.

Committee Observations and Findings

- **(i) Members were concerned about who ascertains that the food is delivered and they were told that the County and sub county systems ensure the food is delivered;**
- **(ii) The resultant difference of Ksh. 8,158.9 Metric tons of food commodities valued at Ksh. 566,835,945.53 not accounted for was what was transported by WFP**

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and timely reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

Paragraph 219 and 220 were dealt with in the FY 2014/2015.

GOK/UNICEF EDUCATION FOR YOUNG PEOPLE PROGRAMME

Basis for Adverse Opinion

221. Presentation of the Financial Statements

The statement of comparative budget and actual amounts lacked explanations for the variances between the budgeted and actual balances. Further, the notes to the financial statements did not provide an analysis of the balances of receipts and payments, contrary to the requirements of International Public Sector Accounting Standards.

Submission by Accounting Officer

The Accounting Officer submitted that it is true that the statement of comparative budget and actual amounts did not have explanations for variances between the budget and actual amounts. The explanation for the variances was erroneously omitted and is explained the submissions

Committee Observations and Findings

The statement of comparative budget and actual amounts did not have explanations for variances between the budget and actual amounts. The explanation for the variances was erroneously omitted

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and timely reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

Paragraph 222 was dealt with in the FY 2014/2015.

Paragraph 223 was other matters

224 Programme's Progress Reports

A review of the statement of receipts and payments indicated that a total of Kshs. 1,139,839,901 had been expended to the project as at 30 June 2016. However, progress reports on the various expenditure components totaling Kshs. 1,139,839,901 as at 30 June 2016 were not presented for audit review. In the circumstance, it has not been possible to verify the extent to which the programme achieved its objectives output targets for the year under review.

KENYA PRIMARY EDUCATION DEVELOPMENT (PRIEDE) PROJECT

Basis for Adverse Opinion

225. Unconfirmed Transfers

The statement of receipts and payments for the year ended 30 June 2016 reflected transfers from Government entities of Kshs. 23,902,753 which was at variance with the supported disbursement to TSC and KNEC on the same item totaling Kshs. 12,659,308. The resultant variance of Kshs. 11,243,445 had not been explained or reconciled. In the circumstance, it had not been possible to confirm the accuracy and validity of the transfers from Government entities figure of Kshs. 23,902,753.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments at the time of review had a variance of Kshs 11,243,445.00 that was not explained. The variance arose from a journal entry of Kshs 10,103,243.00 passed to correct an error in the books. However, the journal was passed erroneously resulting in over expenditure of payments. The balance of Kshs 1,140,202.00 was payments for project activities.

Committee Observations and Findings

The auditors reported that the matter was resolved as the returns were provided in the subsequent period and verified.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved

226. Un-accounted for Expenditures

The statement of financial assets and liabilities as at 30 June 2016 reflects advances to counties and other entities balance of Kshs. 392,515,316 and whose expenditure returns in support of its utilization were not availed for audit review. This was contrary to Section 71 of the Public Finance Management Act, 2012 which stated that a public officer, whom such funds were advanced, should account for them. In the circumstances, the accuracy and completeness of the advances to counties and other entities balance of Kshs. 392,515,316 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it is true that statement of receipts and payments for the year ended 30th June 2016 reflects transfer to counties and other entities a balance of Kshs 392,515,316.00 whose expenditure returns in support of its utilization were not availed for audit review. An amount of Kshs 44,994900 was at TSC and Kshs 53,994,052 was the closing balance at KNEC, and the balance of Kshs. 293,526,464 was at the counties.

The reason for non-submission of expenditure returns was because the money was sent close to the end of the financial year and later recalled back to the project account in the month of July 2016. Attached is the schedule for funds disbursed to counties and returned back to the Project Account.

Committee Observations and Findings

The auditors reported that the matter was resolved as the funds had been sent to the County offices, they were recalled and verified.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved

227. Unsupported Consultancy Contract

The statement of receipts and payments for the year ended 30 June 2016 reflect a figure of Kshs. 86,334,948 under purchase of goods and services. Included in this figure is an expenditure of Kshs. 1,309,552 on consultancy for technical services to the Cabinet Secretary at a contract sum of Kshs. 7,857,309 through single sourcing. The process of procuring the consultant was contrary to the criteria set out by the World Bank under IBRD loans and IDA credits and grants of January 2011. The Project Management was, therefore, in breach of the loans and credit guidelines.

Submission by Accounting Officer

Consultancy for Dr.Jane Munga as policy advisor on technical inputs to the Cabinet secretary was done through single sourcing given the skills, competences and experience required for the office. Request for no objection was sought from the World Bank.

Committee Observations and Findings

The Ministry incurred an expenditure of Kshs. 1,309,552 on consultancy for technical services to the Cabinet Secretary at a contract sum of Kshs. 7,857,309 through single sourcing

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved

228. Unsupported Expenditure

As disclosed in note 8.5 to the financial statements, the purchase of goods and services figure of Kshs. 86,334,948 includes an amount of Kshs. 35,755,087 in respect of travel and other transport equipment whose supporting breakdown was not availed for audit review. Further, included in the figure of Kshs. 86,334,948 is an amount of Kshs. 185,185 in respect of air ticket to Kisumu and whose supporting documents were also not availed for audit review. In the circumstances, it has not been possible to confirm the propriety of expenditure totaling Kshs. 35,940,272.

Submission by Accounting Officer

The Accounting Officer submitted that it is true that during the year under review the Ministry incurred expenditure totaling Kshs. 26,599,112. The tender was awarded through a tender committee meeting on 4/2015-2016 held on17 November 2015. These included procurement of vehicles in favour of M/s Crown Motors Group Ltd. The standard procurement and asset disposal documents for the winning firm were not attached to the payment documents. We regret that anomaly and the documents are current available for review.

It was also true that the procurement plan for the year under review had proposed a cost of Kshs. 15,345,720 against the actual expenditure of Kshs. 22,440,720. The reason for these variances is the exchange rate differences applicable at the time of budgeting and actual date of purchase plus the change in market prices at the time of procurement. Approval for this variance was sought from the World Bank and a no objection given.

Committee Observations and Findings

The procurement plan for the year under review had proposed a cost of Kshs. 15,345,720 against the actual expenditure of Kshs. 22,440,720. The reason for these variances is the exchange rate differences applicable at the time of budgeting and actual date of purchase plus the change in market prices at the time of procurement. Approval for this variance was sought from the World Bank and a no objection given.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

228.1 Purchase of Motor Vehicles

The statement of receipts and payments for the year ended 30 June 2016 reflects an amount of Kshs. 26,599,112 under acquisition of non-financial assets. Included in the figure of Kshs.26,599,112 is a payment of Kshs.22,440,720 in respect of procurement of an executive micro bus and 2 (two) Nissan Patrols whose procurement documents were not availed for audit review, contrary to Section 58 of the Public Procurement Act, 2015. In the circumstances, the propriety of the expenditure totaling Kshs. 22,440,720 could not be confirmed.

Submission by Accounting Officer

Ministry incurred expenditure totaling Kshs. 26,599,112. The tender was awarded through a tender committee meeting on 4/2015-2016 held on17 November 2015. These included procurement of vehicles in favour of M/s Crown Motors Group Ltd. The standard procurement and asset disposal documents for the winning firm were not attached to the payment documents. We regret that anomaly and the documents are current available for review.

It is also true that the procurement plan for the year under review had proposed a cost of Kshs. 15,345,720 against the actual expenditure of Kshs. 22,440,720. The reason for these variances is the exchange rate differences applicable at the time of budgeting and actual date of purchase plus the change in market prices at the time of procurement. Approval for this variance was sought from the World Bank and a no objection given.

Committee Observations and Findings

- **(i) The auditor reported that the matter was resolved as the procurement file was verified but after the auditor's report.**
- **(ii) The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.**

229. Non-Disclosure of Loan in the Special Account Statement

The statement of receipts and payments for the year ended 30 June 2016 excludes a loan from development partners of USD 689,970 (Kshs.69,686,970) reflected in the Special Accounts Cr No. IDA 18863-TF-DA-B. No satisfactory explanation was provided for non-inclusion of the amount totaling Kshs.69,686,970 in the financial statements for the year ended 30 June 2016. In the circumstances, it has not been possible to confirm the accuracy and completeness of these financial statements.

Submission by Accounting Officer

The Accounting Officer submitted that it is true that the statement of receipts and payments for the year ended 30th June 2016 excludes a loan from Development Partners of USD 689,970 (Kshs 69,686,970) reflected in the special account Credit NO.IDA 18863-TF-DA-B. The reason for this exclusion is because, although the loan exchequer was released before 30th June 2016 to the mainstream Ministry development account, the transfer to the project account was not done immediately.

Committee Observations and Findings

- **(iii) The auditor reported that the matter was resolved as the money reflected in July and not by 30th June.**
- **(iv) The explanation by the Accounting Officer was satisfactory therefore the matter is resolved**

10.2. STATE DEPARTMENT OF SCIENCE AND TECHNOLOGY

FINANCIAL STATEMENTS FOR VOTE 1062

Dr. Kevit Desai, the accounting officer for Vote 1062, State Department of Science and appeared before the Committee on 29th January 2019 to adduce evidence on the audited Financial Statements of Vote 1062 the State Department of Science and Technology for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **Dr. Meshack Opara - Director Technical Education;**
2. **Mr. Joseph O. Nyamora - Head of Accounting Unit;**
3. **Mr. Anthony B. Masinde - Head of Finance;**
4. **Mr. John M. Ng'ang'a - Principal Accountant;**
5. **Mr. Zachary Ooko - SADTE;**
6. **Mr. Mary M. Muthoka - Chief Principal KCNP;**
7. **Ms. Monicah Otieno - FM TKNP;**
8. **Mr. Richard Sang - FM-Eldoret National Polytechnic;**
9. **Mr. Oluoch B. Philip - TKNP;**
10. **Mr. Samuel O. Birundu - TKNP;**
11. **Mr. Chanzu Z. Lomolo - TKNP;**
12. **Mr. Patrick M. King'oina - Principal Coast Institute of Technology;**
13. **Mr. Josphat K. Sawe - Chief Principal The Eldoret National Polytechnic;**
14. **Mr. Mwaa Mutinda - Director VET; and**
15. **Mr. Kobia Wakamau - Director Admin**

Basis for Qualified Opinion

201. Inaccuracies in Cash and Cash Equivalents

The statement of financial assets for the year ended 30th June 2016 reflects Kshs.114,885,090.00 being the bank balance against the combined Development, Recurrent and Deposits cash books bank balances totaling Kshs.86,562,980.00, resulting in an unexplained difference of Kshs.28,322,109.00 as detailed below:

Account Name		**Cashbook Balance**	**Financial statement balance**	**Variance**
A/c No		**Kshs**	**Kshs**	**Kshs**
100209817	Development Account	5,979,096.00	39,186,212.00	33,207,116.00
1000209895	Recurrent Account	8,666,183.00	2,008,351.00	6,657,832.00

1000212667	Deposit Account	71,917,700.00	73,690,526.00	1,772,826.00
Total		**86,562,980.00**	**114,885,089.00**	**28,322,109.00**

Further, the bank reconciliation statement for the deposits bank account reflects unpresented amounts of Kshs.43,862,799.00 yet they had all cleared by 30thJune 2016. No explanation has been provided for this anomaly. In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.115,687,142.00 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true there were inaccuracies in cash and cash equivalent between the cashbook balance and the financial statements balances as at the time of audit. Reconciliations have since been done and the cash books have been amended. The auditors have verified the reconciliations.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the reconciliations have been done and verified

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

202. Nugatory payment

The statement of receipts and payments for the year ended 30thJune, 2016 reflects use of goods and services figure of Kshs.1,544,102,053.00 which includes payments totaling Kshs.20,790,625.00 made to various suppliers in respect to demurrage, detention and customs warehouse rent for the equipment under the Support to Enhancement of Quality and Relevance in Higher Education Science and Technology (HEST) Project. However, available information indicates that this was as a result of delay in clearing of the equipment at Mombasa port. No satisfactory explanation was provided for the delay which resulted to extra charges which could have been avoided.

In the circumstance, it has not been possible to confirm the propriety of expenditure totaling Kshs.20,790,625.00.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of receipts and payments for the year ended 30thJune, 2016 reflects use of goods and services figure of Kshs.1,544,102,053.00 which includes payments totaling Kshs.20,790,625.00 made to various suppliers in respect to demurrage, detention and customs warehouse rent for the equipment under the Support to higher education science and technology to enhance quality (HEST) project. Available information indicates that this was as a result of delay in clearing of the equipment at Mombasa port.

The accounting officer confirmed that the sum of Kshs.20,790,625.00 was paid to three (3) months firms in respect to payment made to various firms for demurrage, detention and customs warehouse rent for equipment under the HEST Project.

The delay is not attributable to the Ministry but due to the following reasons.

i. The Loan agreement for the HEST project was signed on **6th December 2012** and it did not have provision for payment of taxes.
ii. The coming into force of the VAT Act 2013 on 2nd September 2013 removed the provision of tax exemption.
iii. In the 2013/14 financial year, tax exemption was reinstated in the Finance Act that was enacted by the National Assembly and the Ministry was granted a tax exemption for the imported equipment.
iv. The newly introduced Simba system could however not accept the tax exemption.

As a result of the above challenges the goods remained in the port for periods of five to six months thus incurring demurrage and storage charges.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the reconciliations have been done and verified

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

203. Unsupported Expenditure on China Equipment Containers

The statement of receipts and payments for the year ended 30thJune, 2016 reflects Kshs.51,411,624,073.00 under transfers to other Government Units whichincludes Kshs.38,597,824.00 paid vide PV No.18 of 16thMarch, 2016 in respect of provision of clearance and inland logistics services for Government of Kenya on China Project equipment whose supporting documents were, however, not availed for audit review.

In the circumstance, it has not been possible to confirm the propriety of expenditure totaling Kshs.38,597,824.00.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were verified

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

204. Unsupported School Fees Expenditure

The statement of receipts and payments for the year ended 30thJune, 2016 reflects other grants and transfers figure of Kshs.212,635,290.00 which includes an amount of Kshs.5,242,496.00 paid vide payment voucher No. 795 dated 28thOctober 2015 in favour of the Principal Secretary-Ministry of

Foreign Affairs towards payment for maintenance of two students studying in Australia. However, and as previously reported, no documentation supporting the payment of Kshs.5,242,496.00 were availed for audit review. In the circumstances, it has not been possible to ascertain the propriety of this expenditure totaling Kshs.5,242,496.00.

Submission by Accounting Officer

It was true that the Ministry paid Ksh 5,242,496.00 for Education Scholarship for two students in Australia via payment voucher number 11200, the education scholarships were awarded to Ian Nderitu Githinji and Sandra Njeri Githinji through a letter from of the P. S, Secretary to the Cabinet and Head of the Public Service ref: OP. CABI/84A. Sandra Njeri Githinji was enrolled for a bachelor's degree in Interior Design and Ian Nderitu Githinji, Master of Analytics. Ian Nderitu's authority was for two and half (2 1/2) remaining years while Sandra s covered a period of four (4) years. The sponsorship was to cater for tuition, accommodation and upkeep for the period thereby indicated. He stated that the payments were made within the sponsorship period and for the courses sponsored. The evidence supporting approvals and the details of the type of courses has since been availed for verification.

The letter of approval for payment of scholarships for Ian and Sandra Nderitu signed by the former President H. E Mwai Kibaki.

Name	**ApprovedAmount for the Courses (Kshs.)**
Sandra Njeri Githinji	12,763,477.00
Ian Nderitu Githinji	8,560,316.00
Total **21,323,793.00**	

No.	**Name**	**Date Paid**	**AmountPaid**
1.	Sandra Njeri Githinji	25/3/2013	3,378,522.00
2.	Ian Nderitu Githinji	25/3/2013	5,167,874.00
3.	Ian & Sandra	29/6/2015	3,744,032.00
4.	Ian & Sandra	27/11/2015	5,342,496.00
5.	Ian & Sandra	19/3/2014	7,908,133.00
Total			**25,541,057.00**

the campus indicated that the programme fees may change on an annual basis by an amount not exceeding 7.5% per year.

Ambassador Francis Muthaura former Head of Civil Service in the year under review, submitted to the Committee as follows:

1. That the father of two had lost his job with Oil Libya while his two children had just gone to Australia.
2. The children were devastated to learn that their father could not afford to pay for their education and efforts to raise funds from family and friends were not yielding results
3. In a desperate situation, Mr. Githingi appealed to his Excellency the president for government scholarships. The President responded positively and directed him to facilitate on the same.
4. Via the letter Ref.OP.CAB.1/84A, he instructed Prof. Crispus Makau Kiamba the then Permanent Secretary, Ministry of Higher Education to facilitate the award of scholarship to the two students

Evidence from Prof Cripsus Makau Kiamba, former PS Ministry of Higher EducationScience and Technology submitted to the committee as follows:

1. He received instruction from Prof. Nick Wanjohi, the then private Secretary to the Former President His Excellency Mwai Kibaki, to facilitate the two needy students.
2. He wrote to Amb. Francis Muthaura requesting for his approval and he was granted
3. Having received authorization from the then head of Civil Service, he facilitated the scholarship award to the two needy students.

Prof. Nick Wanjohi appeared before the Committee on 25th October, 2018and submitted as follows:

1. Mr. Philip Githinji gave his request to the President asking for support of his two children in pursuit of their education in Australia.
2. The president then directed him to write to the PS Education to facilitate the same in accordance to the law.
3. If the State Department could have found any challenge in facilitating the same, the Accounting Officer ought to have reported back to the Office of the President

Committee Deliberations

The Committee brought to his attention the following Facts:

1. Art 135 of CoK 2015 on Decisions of the president being in writing and bearing the seal and the Signature of the President
2. Instructions given by the then Head of Public Service Amb. Philip Muthaura was on 12th August, 2018 way before the request by Mr. Githinji on 5th November, 2018.

He responded as follows:

1. He acted on verbal instructions
2. He was not aware of the letter by Amb. Francis Muthaura otherwise he wouldn't have written another letter on the same issue.

Committee Observations and Findings

(i) **Ambassador Francis Muthaura the then Head of Public purported to communicate instructions on behalf of retired President, H.E. the Mwai Kibaki to Prof. Crispus Makau Kiamba the then Permanent Secretary, Ministry of Higher Education to facilitate the award of scholarship to the two students.**

(ii) **Ambassador Francis Muthaura and Prof Nick Wanjohi could not provide any proof of official communication from the President pursuant to the provisions of Article 135 of the Constitution that requires** a **decision of the President in the performance of any function of the President under the Constitution shall be in writing and shall bear the seal and signature of the President.**

(iii) **The Committee noted that Amb Francis Muthaura wrote to Prof Kiamba to support students on purported instructions from retired President HE Mwai Kibaki.**

(iv) **The Committee further noted that a second letter was written from Prof Nick Wanjohi to Prof Kiamba on purported instructions from retired President HE Mwai Kibaki.**

(v) **There was no evidence tabled to support the President issued a communication pursuant to the provisions of Article 135 of the Constitution that requires** a **decision of the President in the performance of any function of the President under the Constitution shall be in writing and shall bear the seal and signature of the President.**

(vi) **The Committee established that the total amount that paid towards the scholarship of the two students was Kshs 25,541,057.00.**

Committee Recommendations

Amb. Francis Muthaura and Prof Nick Wanjohi should be reprimanded for acting on a purported presidential directive that did not meet the requirements of Article 135 of the Constitution.

205. Accrued Interest on Delayed Payment to Contractor-North Rift Technical Training Institute

The statement of receipts and payments for the year ended 30th June 2016 reflects a figure of Kshs.51,411,624,073.00 under acquisition of assets which includes an amount of Kshs.17,240,000.00 paid to a contractor vide payment voucher No. 004 dated 26th February 2016 towards construction of the North Rift Technical Training Institute. However, scrutiny of the supporting documents for Kshs.17,240,000.00 revealed that Kshs.990,000.00 was incurred in respect of interest accrued due to delayed payment to the contractor by the Ministry. Further, information available indicates that construction works were incomplete although the contract period lapsed on 12th November 2013. No evidence has been presented to show that the contract period was extended beyond 12th November 2013. In addition, the nugatory expenditure of Kshs.990,000.00 did not constitute a proper charge on public resources.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Ministry entered into a contract with Pyramid Construction Ltd in August 2012 for the construction of North Rift TTI and that the contract was to be concluded on 11th November 2013. It is also true that the contractor is still on site since he has not completed the construction of the TTI. The cause of the constructor's delay is compensatory in that the insecurity situation in East Pokot has made it impossible to complete the project on time. The contractor has been forced to close the site severally for long duration of time as a result of deadly skirmishes in the area which forces his workers to flee to safety. It is also true that the contractor was paid Ksh.990,000.00 as interest on delayed payments. The delay of payment was occasioned by a challenge in the release of the exchequer by the National Treasury to Ministry in the 2015/16 FY. Consequently, the contractor suffered a delay of one year from June 2015 when he presented his certificate to June 2016 when he was paid. This delay resulted in the payment of penalty on delayed payments in accordance to the contract clause 23 item 23.3. The documents have been availed for audit review.

It is true that the performance bond attached expired on 30th November, 2015 and as at the time of audit it had been renewed. It is also true that the ministry had not granted an extension of time to the contractor at the time of audit. However, the ministry has received a **request of extension of time, work programme** and a renewed **performance bond** (**all three were attached for perusal by the Committee**) from the contractor. The ministry is currently evaluating this request.

Committee Observation and Findings

(i) **The Committee was concerned and wondered whether the project would still be viable by the time of completion**
(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

The Accounting Officer must at all times make sure that all service providers are paid on time to avoid delays that may lead to loss of public money through payment of accrued interest.

206. Procurement of Equipment for North Rift Technical Training Institute

On 29thJanuary 2015, the Ministry signed a contract with a firm for supply of electrical and electronic engineering equipment to the North Rift Technical Training Institute at a contract sum of USD 2,547,259.00 equivalent to Kshs.233,209,933.00. Payment records available at the Ministry indicated that Kshs.128,798,592.00 was paid to the firm during the year under review being final 50% of the invoice and effected vide payment voucher No. 119 dated 30thJune 2016. This expenditure is included in purchase of specialized plant, equipment and machinery balance of Kshs.185,152,868.00 under Note 10 to the financial statements. However, available information indicates that the Institute was not complete and as a result, the electronic and electrical engineering equipment procured were instead taken to Baringo Technical Training Institute. The Ministry has not explained why procurement of equipment was done for incomplete project.

Submission by Accounting Officer

The Accounting Officer stated that it was true that on 29th January, 2015 the State Department of Science and Technology signed a contract with M/S. Rockey Africa Ltd for the supply of mechanical engineering training equipment to the North Rift Technical Training Institute at a contract sum of USD. 2,547,258.62. It is also true that the equipment was relocated to Baringo Technical Training Institute since North Rift TTI was not yet complete by the time the equipment reached the country. The procurement of equipment was procured under the tender for the supply of equipment to five (5) new TTIs in underserved areas: The equipment for North Rift TTIs was one of the five lots in the tender. By the time the tender was being issued the construction in all the five institutions targeted for supply of the training equipment was at par in all the institutions. However, by the time of delivery the construction works in North Rift TTI had stalled as a result of insecurity in the area. In order to save the government from incurring additional demurrage and warehousing costs awaiting the completion of the institution, the then MTC approved that the equipment be delivered at newly established Baringo TTI which is in the same county as North Rift TTI, under the Ministry and hitherto lacked requisite training equipment.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were verified.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

207. Pending Bills

As disclosed in Note 15 to the financial statements, the Ministry had pending bills amounting to Kshs.80,741,641.00 as at 30thJune 2016 out of which Kshs.14,751,969.00 related to the development vote and Kshs.65,989,715 to the recurrent vote. Had these bills been paid by 30thJune 2016, the statement of receipts and payments would have reflected a deficit of Kshs.36,673,614.00 instead of the surplus of Kshs.44,068,027.00 now reflected.

Submission by Accounting Officer

The Accounting Officer stated that it was true that bills of Ksh. 80,741,640.85 were not settled and had they appeared in the payments there could have been a deficit. It is also true that not the whole exchequer was funded and had it been, there would be no deficit.

Committee Observations and Findings

(i) **The Committee noted that it will make a determination on the matter based on the responses given.**

(ii) **The issue remains unresolved**

208. Mentorship Programme and Construction of New Technical Training Institutes

The Ministry of Education, Science and Technology initiated a project for construction of sixty (60) and a further seventy (70) new technical training institutes (TTI's) across the Country in order to enhance technical training. In order to oversee these constructions, a number of existing institutions were appointed by the Ministry to mentor the new institutes. The statement of receipts and payments reflects total expenditure of Kshs.51,411,624,073.00 under transfers to other Government units under which the above expenditure was charged. Review of financial and contractual records as well as physical verification of these projects revealed the following unsatisfactory matters:

208.1 Construction of the Proposed Kakrao Technical Training Institute (TTI)

Records examined at Rongo University College indicate that, a contract was signed on 24 October 2014 between the College and a local contractor for construction of the proposed Kakrao TTI at a contract sum of Kshs.48,720,833.00 for an envisaged contract period of 52 weeks ending on 14thOctober 2015.

Physical verification of the project in September 2016, revealed that the project was still incomplete and no evidence was made available for audit review to show that the contract period was extended beyond 14th October 2015. Further, no explanation has been provided for the significant delay in completion of the project. In the circumstances, the projects stakeholders may not obtain value for their resources if the project is not completed and put to intended use.

Submission by Accounting Officer

The Accounting Officer stated that it was true that Rongo University College contracted a firm on 24th October 2014 for the construction of the proposed Kakrao TTI at a contract sum of Kshs.48,720,833.00 for an envisaged contract period of 52 weeks ending on 14th October 2015.

It was also true that this project has similarly experienced delays in its implementation. At the evaluation stage the Contractor emerged the lowest evaluated bidder having met all the evaluation criteria. Rongo University gave the necessary support and made prompt payments once interim certificates were presented. The Contractor displayed financial difficulties soon after starting construction. Because of his financial weakness, he would stop work without giving proper notices. This attracted warnings and defaults notices from the Project Manager. The Project Management Team exerted appropriate pressure on the Contractor by holding frequent site meetings. Due to this, the contract has been terminated and the institute is in the process of contracting a new contractor to complete the project. The documents have been forwarded to the auditors for review.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were verified

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

208.2 Construction of the Proposed Nyakach Technical Training Institute

The Ministry through Kisumu Polytechnic awarded a tender for construction of Nyakach Technical Training Institute at a contract sum of Kshs.55,068,238.00 for an envisaged contract period of 52 weeks which was to end on 23 August 2015. The contract was later revised to Kshs.60,593,120.00 due to additional works not included in the original design. Physical inspection and review of the project on 30 January 2017, showed that Kshs.24,921,350.00 or 41% of the contract sum had been paid to the contractor while clerk of works records revealed works were at 55% completion level and an extra seventy-nine (79) weeks or 152% of the contract period had lapsed since the project commenced. However, tender minutes approving extension of the project duration beyond 23rd August 2015 were not availed for audit review. Therefore, it was not clear why the works were way behind schedule despite the Ministry and Constituency Development Fund disbursing a total of Kshs.60,593,120.00.

Under the circumstances, stakeholders may not realize the value for their resources if this project is not completed and put to intended use.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Ministry through Kisumu Polytechnic awarded a tender for the construction of proposed Nyakach Technical Training Institute at a tender sum of Kshs.55,068,238.00. The contract between the Polytechnic and DaMtech Enterprises was signed on 24th September 2014 and was estimated to take 52 weeks. However, the site was handed on 16th February 2015 due to land ownership problem and this caused delay in commencement of the project. Additionally, the project delayed due to additional work that was added for septic and firefighting equipment which required more time to construct and necessitated the contractor to request for an extension of time. The contractor did apply for extension of time, through the project manager for extension on 9th September 2016. This was approved later on. Attached is a copy of the letter from the contractor and the approval granted. We further wish to confirm that the project is currently complete as per attached certificate of completion. The documents have been forwarded to the auditors for review.

He also noted that the project is currently complete and that there was no additional cost for the project above the contract sum.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were verified

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

208.3 Construction of the Proposed Riamo Technical Training Institute

Available information revealed that on 5thNovember 2014, the Ministry, through Kisii National Polytechnic entered into a contract for construction of Riamo Technical Training Institute at a contract sum of Kshs.48,627,833.00. The anticipated project completion period was 52 weeks ending October 2015. Review of payment records revealed that the contractor had been paid a sum of Kshs.10,835,059.00 as at 28 January 2016. Further, scrutiny of the records revealed that on 16 February 2016, the main contractor subcontracted the works, when the level of completion was at 24%. The agreement was signed by both parties before an advocate on 16 February 2016. The terms of agreement were as detailed below:

(i) the subcontractor was to supply all necessary materials and complete the works.

(ii) the main contractor to be paid only 10% of all the certified amounts while the subcontractor was to get 90% and be paid directly to his account.

However, the following unsatisfactory matters were noted;

a) The agreement between the contractor and sub-contractor did not involve Kisii National Polytechnic or its appointed representative.

b) Certificate No. 5 raised by the project manager still bore the name of the main contractor as the payee. Thus, it would appear the project supervisor was not part of the agreement.

c) The contract period as well as the performance bond had since expired and there was no evidence presented to show approval for contract's extension.

No plausible reasons have been provided for these anomalies.

In addition, examination of records revealed that the contract sum was varied by Kshs.2,752,219.00 from 48,627,833.00 to Kshs.51,380,052.00, while no tender minutes and supporting analysis to confirm that the variation was approved by the management of Kisii National polytechnic were availed for audit review.

In the circumstance, the stakeholders may not realize value for their resources if this project is not completed and put to intended use.

Submission by Accounting Officer

We wish to state that the project has not been completed because of the challenge at the site which is on a swampy area which led to the contractor raising a large variation at the substructure level of Ksh.32,719,606.16. After measurements were done by the County Works Officer, the contractor and the institute, a variation of Ksh.2,752,219.00 was agreed. This amount was approved by the Board of Governors and was presented to the Ministry for approval and funding. The contractor is on site and walling the building and preparing to erect the roof. The Board has also approved a request for an extension of time on the project. On the issue of a performance bond the same has been deposited at the institute by the contractor and is valid up to 30thMay 2019.

He stated that it was true that the institute received a sub-contractor agreement to supply material and complete the works for Riamo Technical Training between Manya Investment Co. Ltd and Kenturk International Ltd. A college advocate was contracted to scrutinize the contract Tender No. MOEST/45/2014-2015 between Gusii Institute of Technology and Manya Investments Co. Ltd and gave an opinion that the contract was not injurious to the college as it does not in any way vary the specifications of the contract. The contractor is on site and the project is 80% complete. The documents have been availed to the auditors for review.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were verified

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

208.4 Construction of the Proposed Taveta Technical Training Institute

Coast Institute of Technology awarded a contract for the construction of a twin workshop on 8 September 2014 to a local contractor at a contract sum of Kshs.46,441,290.00. However, examination of payment vouchers revealed that the first and the second certificates for Kshs14,290,446.00 and Kshs.9,715,584.00 respectively were paid without deducting withholding tax at the rate of 3% both totaling Kshs.720,181.00 as required by Section 5(f)(ii) of the Third schedule of the Income Tax Act of 2014. In the circumstances, the institute risks penalties from the Kenya Revenue Authority for not complying with Law.

Submission by Accounting Officer

The Accounting Officer stated that the institute was advised by Kenya Revenue Authority (KRA) Domestic Taxes Department during their compliance check on 23rd March 2015 to start remitting

3% withholding tax of contract sum. The advice came after we had made payments for certificates 1 and 2, of Kshs.14,290,446.00 and Kshs.9,715,584.40 respectively to Eaglenet Investment Ltd without deducting withholding tax at the rate of 3% totaling to Kshs.720,180.20 as required by income tax Act 2014. We however wish to state that the same has been remitted to KRA as per attached documents forwarded for audit review.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were verified

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

208.5 Construction of the Proposed Kaloleni Technical Training Institute

Records available at Kenya Coast National Polytechnic indicate that on 27 March 2015 the institution entered into a contract for construction of the proposed Kaloleni Technical Training Institute at a contract sum of Kshs.49,535,280.00 and a contract for a period of 52 weeks. However, available information indicates that additional works on septic tank were included and the project period was extended to 4 July 2016. As at September 2016, the project was approximately 45% complete while Kshs.23,342,163.00 or about 47% of contract sum had been paid to the contractor.

Further, no site house was seen on the project site yet it had been provided for in the bill of quantities. Besides, there was no evidence to show that the contract period was approved for extension beyond 4 July 2016. The Ministry has not provided satisfactory explanation for the delay in completion of the project and why the site house was not erected.

In addition, the general conditions of the contract require that the winning tenderer provide a duly executed performance bond of 5% of the contract value at the time the contract is signed with the bond remaining valid during the duration of the contract. However, no performance bond was availed for audit review.

In the circumstances, stakeholders may not realize value for their resources if this project is not completed and put to intended use.

In the circumstances, the institute risks financial loss in the event the contractor fails to execute the contract as contracted.

Submission by Accounting Officer

It was true there has been a delay in the completion of works as per the contract period. This delay occurred as a result of land issues at the proposed site and the contractor abandoning the site without reasonable explanation. The contractor upon being summoned by the board of Governors to explain the slow pace of the work promised to improve but he was served with a warning letter by the County Works Officer who is the Project Manager.

After the expiry of the performance bond the institute demanded for a new performance bond to be submitted by the Contractor. The relevant documents to support the issue have been availed to the auditors for review.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were verified

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

208.6 Construction of the Proposed Lamu East Technical Training Institute

Records available at Kenya Coast National Polytechnic indicated that on 31 October 2014, the institution awarded and signed a contract for construction of the proposed Lamu East Technical Training Institute at a contract sum of Kshs.54,841,082.00 executable over a period of 52 weeks. Review of the project status in September 2016, revealed that the project was incomplete while Kshs.38,079,615.00 or 72% of the contract price had been paid to the contractor against time lapse of 198% of the contract period. No evidence of request for approval for extension of the contract period beyond November, 2015 was availed for audit review. Therefore, the project is way behind schedule and it is not clear when, if at all it will be completed.

In the circumstances, the project's stakeholders may not realize value for their resources if the project is not completed and put to intended use.

Submission by Accounting Officer

The Accounting Officer stated that it was true that there have been delays on the completion of the works, occasioned by a problem of land ownership between County Government of Lamu and Lamu East TTI. Currently the contractor is not on site and the mentor (Kenya Coast National Polytechnic) is making efforts to reach the contractor so that they can map the way forward.This has been availed to the auditors for review.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were verified

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

208.7 Delays in Construction Works

Available records at various Technical Training Institutes indicate that tenders for the proposed erection and completion of twin workshops, classrooms and office blocks were awarded on various dates in 2014 for a period of fifty-two (52) weeks. However, physical visits in September 2016 to eight (8) Institutes implementing projects with a total contract sum of Kshs.428,075,604.00 revealed that an amount totaling Kshs.294,864,837.00 was paid to various contractors for projects which were behind schedule as tabulated below:

Institution	Contract Sum (Kshs)	Amount Paid (Kshs)	% Paid Vs Contract Sum
Mirera TTI	49,235,785.00	36,721,324.00	74.58%
Koibatek TTI	52,318,715.00	41,274,498.00	78.89%
Kipipiri TTI	55,094,423.00	48,849,366.00	88.66%
Mathioya TTI	52,777,934.00	36,916,095.00	69.95%
Kaelo TTI	55,102,270.00	8,397,450.00	15.24%
Mathira TTI	57,369,957.00	28,343,767.00	49.41%
Laikipia North	52,332,676.00	43,978,328.00	84.04%
Muraga TTI	53,843,844.00	50,384,010.00	93.57%
Total	**428,075,604.00**	**294,864,838.00**	

No evidence of the extension of contract period and renewal of expired performance bonds was availed for audit review.

In the circumstance, the stakeholders will not realize value for their resources if these projects are not completed and put to intended use.

Submission by Accounting Officer

The Accounting Officer stated that it was true the evidence of extension period was not availed for audit review; however, the projects are complete. Copies of completion certificates/handover have since been availedto the auditors for review.

We wish to state that performance Bond had been deposited to the college. This Contract was for drilling of borehole only. The contract lacked provision for supply of electricity and construction of a powerhouse for the same. Drilling of borehole delayed because the drilling rig had broken down and the contractor requested for extension of time.

Due to lack of provision for supply of electricity it became necessary to buy four rolls of electric wire for borehole test pumping had to be done. These were later left with the college. Inaddition, the water test results showed some salinity, unfit for domestic use. The Board of Governors recommended that designs and estimates for omitted items be done and sourcing of funds from the Ministry of Education be done as per attached relevant copy of minutes to cater for power house, purification and laying of pipes to the storage tank and reticulation. The Ministry is reviewing the proposal for funding. The relevant records about the borehole have been availed to the auditors for review.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were verified

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

208.8 Borehole Drilling Project at the Coast Institute of Technology

Examination of records maintained at the Coast Institute of Technology revealed that the institute awarded a contract for borehole drilling to a company at a contract price of Kshs.3,936,450.00 on 10th March 2015. The institute paid Kshs.3,929,000.00 and a further Kshs.170,000 for four rolls of electric wire cables used to supply electricity to the borehole. As a result, the project costs totaled Kshs.4,099,000.00. The extra expenditure totaling Kshs.162,550.00 was not in the bill of quantities and was therefore not approved.

Physical verification of the borehole on September 2016 revealed that it had not been put to use as the management explained that the water was confirmed as unfit for human consumption by the Government chemist. In the circumstances, it has not been possible to confirm the propriety of expenditure totaling Kshs.4,099,000.00 incurred in drilling the borehole.

Submission by Accounting Officer

The Accounting Officer stated that the state that performance Bond had been deposited to the college. This Contract was for drilling of borehole only. The contract lacked provision for supply of electricity and construction of a powerhouse for the same. Drilling of borehole delayed because the drilling rig had broken down and the contractor requested for extension of time.

Due to lack of provision for supply of electricity it became necessary to buy four rolls of electric wire for borehole test pumping had to be done. These were later left with the college. In addition, the water test results showed some salinity, unfit for domestic use. The Board of Governors recommended that designs and estimates for omitted items be done and sourcing of funds from the Ministry of Education be done as per attached relevant copy of minutes to cater for power house, purification and laying of pipes to the storage tank and reticulation. The Ministry is reviewing the proposal for funding. The relevant records about the borehole have been availed to the auditors for review.

Committee Observations and Findings

- **(i) Members wondered if there were feasibility studies done to ensure that the water was fit for human consumption. The accounting officer stated that an assessment was done first to ensure there was water and then tested and that is when salinity was discovered.**
- **(ii) The members were informed that the water is now being used for irrigation**
- **(iii)The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were verified**

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

208.9 Construction of Perimeter Wall

Further, records available at the Coast Institute of Technology revealed that the institute awarded a contract for construction of a perimeter wall to a firm at a contract price of Kshs.24,519,639.00 for a period of twenty-five(25) weeks ending on 24th September 2015. The bill of quantities prepared in February 2015 indicate that the Engineer's estimate was Kshs.2,726,962.00.

Review of the project in September 2016 revealed that the project was 65% complete and the performance bond of Kshs.1,225,928.00 expired on 25th March 2016 and had not been renewed. Further, the contract price was varied by Kshs.222,940.00 without approval of the tender committee. Under the circumstances, the stakeholders may not have realized value for their resources invested in this project.

Submission by Accounting Officer

The Accounting Officer stated that the contract performance bond could not be renewed as the contractor was owed Kshs 7,047,130.00 which was far much more than the contract performance bond.

The project had taken long to complete because of the delayed release of funds by the National Treasury and encroachment of the college compound by squatters. The institution is following up the squatter issue with the county administration through the Board of Governors.

Increase in the cost of the project was done by the county work officers for the reason that what had been given earlier was just an estimate and the actual measurements were carried out later.

The project variation of Ksh. 222,940.00 was done after an approval meeting as attached Thesum of Ksh, 3,000,000.00 was a provisional sum for payment of extra works executed in the construction of workshop and laboratory complex (BQ attached).A payment voucher number D0066 of 25th June, 2015 for the same has been attached. The perimeter wall has so far been constructed up to the squatted area. The issue of squatters has not yet been resolved but is being followed up.

209. Unresolved Prior Year Matters

209.1 Kisumu Polytechnic - Construction of a Library Block

Examination of records maintained by the Polytechnic showed that a construction firm was awarded a contract for construction of a library block in November 2011 at a contract price of Kshs.110, 672,456.60 for duration of 52 weeks. Examination of expenditure records revealed that Kshs.110, 489,846.68 or 99.8% of the initial contract sum had been paid to the construction firm by April 2015. An audit inspection in April 2015 showed that the project was about 70% complete. No explanation has been provided as to why 99.8% of the contract sum was paid when the project was only 70% complete and therefore way behind schedule.

Further, scrutiny of the Bill of Quantities, which reflects the proposed contract sum of Kshs.110, 672,456.60 revealed the following unclear issues:

i. An amount of Kshs.500, 000 was provided for clerk of works. It was however established that the clerk of works who is an employee of the Institute was not paid Kshs.500, 000 for the services he rendered.

ii. The contractor also provided for Kshs.200, 000 for the project manager's office. However, during the site visit no such structure was seen.

iii. Kshs.1, 500,363 was provided for in the tender to allow for any increase in the cost of labour and/or materials during the contract period. The same amount was again catered for under provisional sum for contingencies and fluctuations totaling Kshs.6, 000,000.

No satisfactory explanations were provided for the above anomalies. In the circumstances, it has not been possible to confirm that expenditure totaling Kshs.2, 200,363 was a proper charge against public resources.

Submission by the Accounting Officer

It was true that Kisumu Polytechnic awarded a contract for of Library block in November 2011 at contract price of Kshs. 110,672,456.60 for duration of 52 weeks. He however stated that there was a variation of 11.58% in the contract price that was making the total contract sum to be Kshs. 123,492,468.20, the payments made at that moment were therefore not at 99.8% of the contract price. These variations were recommended approved by the public works as per attached letter from the ministry of public works, REF: CWO/KSM/LIB/POLY/30 and attached confirmation letter of variation from the principal.

It was also true that an amount of Kshs.500,000.00 was provided for clerk of works. He stated that these monies were paid to the contractor as per agreement, and the contractor paid the same to the clerk of works in tranches as per their agreement. Attached is the acknowledgement of receipt of the same by the clerk of works. The contract also provided for Kshs.200,000.00 for project manager's office which we also wish to confirm was put in place.

It was also true that Ksh1,500,360.00 was provided for as a firm price in the Bill of Quantities (BQ) in general preliminaries to take care of any increase in the cost of labour and or material during the execution of the project/contract. However, there was an additional provisional figure totaling to Ksh.6,000,000.00 provided in the BQ which was to take care of any unforeseen omission or understated elements of the project due to the magnitude of the project and that is how the BQ was prepared by the engineers from public works/ county works.

Committee Observations and Findings

(i) The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.
(ii) The Committee marked the matter as resolved.

209.2 Economic Stimulus Programme – Proposed Bomet Technical Training

As reported in 2014/2015, records held at the Ministry indicate that a total amount of Kshs.40, 222,019 was disbursed vide payment vouchers No.313 of Kshs.37, 900,000 and No. 559 of Kshs.2, 322,019 dated 2 May 2012 and 29 June 2012 respectively to Eldoret Polytechnic towards construction of the proposed Bomet Technical Training Institute under the Economic Stimulus Programme (ESP). Additional information availed from Eldoret Polytechnic indicates that a firm was awarded the contract to construct Bomet Technical Training Institute and that the works commenced in 2011.

However, there was no clarity on how the contract was being managed and how the project finances were operated. Although it was explained that Kshs.40, 222,019 disbursed from the Ministry was handled by former management, no relevant financial and contractual documents such as tender documents, cash book, bank statements, bank account, bank reconciliation statements, bills of quantities, cheque books were availed for audit verification. Physical verification of the project in September 2015 revealed that the project was incomplete and the contractor was not on site. Further, no explanation has been provided as to why the project is incomplete despite full contract amount having been released by the Ministry.

In the circumstances, the propriety of the expenditure of Kshs.40, 222,019 could not be confirmed and it was not possible to confirm that the stakeholders would get value for their money.

Submission by the Accounting Officer

It was true that Eldoret polytechnic received Kshs. 40,222,019 which was disbursed from the Ministry of Education. The disbursements were partially done on 3rd may, 2012 of Ksh 37,900,000.00 and on 2nd July, 2012 Ksh. 5,627,019.80 was remitted thus totaling Ksh. 43,527,019.80 which differed with the contract sum.
The balance of Ksh. 2,322,019.80 was included in the tranche of Ksh. 5,627,019.80 though there were no advice notes to that effect. The first disbursement was made to operations account No. 01021027668101 instead of infrastructure account No. 01021027668105 hence was treated as operations disbursements but the funds were used for infrastructure.

The project was managed by the Board of Governors and supervised by the Public Works who were their Project Managers. The Public Works usually raised the certificates for works done and the Board settled the obligations thereto. The site meetings were held and chaired by the project manager from Public Works and attended by both the members of the board of Governors, the

Management and the contractor.

Copies of the following relevant financial documents which were provided for audit review.

- Bill of quantities
- Tender Evaluation Minutes
- Tender Award Minutes
- Notification Award Letter
- Contract Agreement
- Bank Statements
- Cash Book summary

It was also true that during the physical verification of the project done in September 2015, showed that the project was incomplete. The project was delayed at the start because there were some land disputes.
Copies of the following documents as evidence in support of the delay were provided

- Advocate's letter from the complainant dated 3rd May, 2012 the project has been completed. In fact, it was handed over to Moi University and has been put to use.
- Copies of the documents which form evidence in support of the completion and handing over to the user.
- Minutes of the handing over/Taking over dated 2nd March, 2016

Committee Observations and Findings

(i) The Ministry to provide policy proof that allowed conversion of Technical Schools to Universities by the then Cabinet Secretary.
(ii) The Committee directed the Office of the Auditor General to verify the documents brought forward by the State Department and report back to committee as soon as possible.
(iii)The matter remained unresolved.

209.3 Mawego Technical Training Institute

209.3.1 Stalled Project/Incomplete Classrooms

As reported in 2014/2015, on 22 December, 2009 the Institute contracted a firm to construct ten (10) classrooms at a contract sum of Kshs.11, 897,384. As the works commenced, the Institute varied the project to include one more floor to accommodate six (6) extra classrooms and the contract sum revised to Kshs.22, 437,050.60, by a variation of Kshs.10, 539,666.60 or 88.5% of the original contract sum which exceeds the allowable 15%, contrary to the provisions of section 47(b) of the Public Procurement and Disposal Act, 2005 and its Regulations of 2006.

Further, the Bills of Quantities reflect a provision of Kshs.440, 000 for electrical works. However, a physical visit revealed that no electrical works had been installed in the building. In addition, the ground floor did not have a structural beam in the middle of the slab and instead a round, metallic tube had been reinforced which has negatively impacted on the quality of workmanship.

In addition, payment schedules availed for audit review indicate that the contractor has been paid Kshs.20,147,214.60 which is about 90% of the revised contract sum as at June, 2011 while the project is at about 50% complete and the contractor has since abandoned site. No satisfactory explanations have been provided for the non-completion of the project yet the contractor has been paid over 90% of the contract sum.

In the circumstances, the project's stakeholders had not yet obtained value for their resources after irregular variations of the contract and delays in its execution led the project to stall.

Submission by the Accounting Officer

It was true that the institute contracted a firm on 22ndDecember, 2009 to construct ten (10) classrooms at a contract sum of Ksh. 11,897,384.00. It was also true that the institute varied the contract by Kshs. 10,539,666.60 or 88.5% of the original contract sum to include one more floor to accommodate six more classrooms. He however stated that the variation in the contract sum was agreed upon and approved by the tender committee as per attached minutes of the tender committee, (appendix 337.1a) and a letter from public works on the variations.

It was also true that the bill of quantities reflects a provision of Kshs. 440,000.00 for electrical works, we however wish to state that the payment was done through approved interim certificates No.4 as prepared by the District works officer. The electrical works done at that time was fixing of sockets.

It was also true that the payment schedules availed for audit review indicates that the contractor has been paid Kshs. 20,147,214.60 which, is about 90% of the revised contract sum as at June, 2011. We however wish to state that this was done as per interim completion certificates raised by public works the documents have been forwarded for audit review.

Committee Observations and Findings

(i) **The Committee resolved to summon the then Permanent Secretary to shed more light on the matter.**

(ii) **The Committee marked the matter as resolved.**

209.3.2. Bushiangala Technical Training Institute - Construction and Completion of a Library Complex

As previously reported, documents available indicate that the Institute awarded a contract for the construction and completion of a library complex to a firm at a contract sum of Kshs.24, 463,865.47 with a completion date of 31 December, 2012. Records held at the Ministry revealed that Kshs.24, 463,865 has been disbursed to the Institute towards the project with the final disbursement of Kshs.5, 270,775 made in January, 2014, while payment records at the Institute revealed that Kshs.14, 988,264.59 had been paid to the contractor by April 2015. The variance of Kshs.9, 475,600 has not been accounted for.

Further, an audit inspection of the site in April 2015 revealed that the project was approximately 60% complete. No satisfactory explanation has been provided for the delay in completion of the project and no minutes in support of an extension of the contract period were availed for audit review.

In the circumstances, it has not been possible to confirm if and when the project will be completed and how the balance of Kshs.9, 475,600 was utilized.

Submission by the Accounting Officer

It was true that Bushiangala TTI awarded a contract for construction and completion of a Library Complex to Intellect Contractors at a contract sum of Kshs.24,463,364.95 with a completion date of 31stDecember, 2012. However, the Ministry disbursed a total of Kshs.16,541,550.00 in two tranches of Kshs.11,270,775.00 on 20th November 2012 and of Kshs.5,270,775 on 18thDecember 2013. Copies of the bank statement with the disbursements highlighted have since been availed for audit review.

It was also true that during an audit inspection in April 2015. The construction works were at approximately 60% as a result of delay. Regarding the contract extension, the issue was deliberated on by Board of Management on 9thApril 2015 and was approved on the strength that funds for the works were trickling in slowly from the Ministry as per statements attached. The documents have been forwarded to the auditors for review.

Committee Observations and Findings

(i) **The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**

(ii) **The Committee marked the matter as resolved**

209.4. Eldoret Polytechnic

209.4.1 Construction of Institutional Management Laboratory and Kitchen Annex

As reported in 2014/2015, examination of payment vouchers and summary records of Eldoret Polytechnic revealed that the Institute engaged a contractor for a labour only contract for erection and completion of institutional management laboratory that also included a kitchen annex. Further, scrutiny of payment records revealed that, the Polytechnic contracted for consultancy services and separately procured materials from pre-qualified suppliers. However, the institute failed to provide relevant supporting procurement records that include description of works, tender committee minutes, evaluation and comparison of the bidders and contract agreements with the successful 108 bidders. Further, as at the time of site visit in April 2015, the only records availed for audit review were payment vouchers and expenditure summaries which indicated that the institute had spent Kshs.39,486,190.00 for purchase of building materials and Kshs.31,486,190.00 for labour and consultancy services. It was not possible to distinguish payments relating to the main laboratory or the kitchen annex. The payments related to 2012/2013 financial year only. Further, no supporting documents such as works valuation certificates were availed for audit review.

Scrutiny of payment vouchers supporting disbursements availed by the Ministry revealed that the Institute received Kshs.105,850,000.00 in the financial years 2010/2011 – 2013/2014. The certificates examined for the main food laboratory revealed that the initial cost of Kshs.152,000,000.00 was varied to Kshs.275,000,000.00, an increase of Kshs.123,000,000.00 or about 81% which had not been explained.

Further, examination of the public works certificates attached to the vouchers revealed that construction of the laboratory and Kitchen annex was varied from Kshs.120,000,000.00 to Kshs.225,000,000.00, an increase of Kshs.105,000,000.00 or about 88%. Despite these substantial payments to the contractor, the project is incomplete and no status report on level of completion from Ministry of Public Works was availed for audit review. In the circumstances, it has not been possible to establish the nature and terms of this contract and confirm that the costs totaling Kshs.225,000,000.00 were a proper charge on public funds.

Submission by the Accounting Officer

It was true that the above project was labour based as supported by B.O.G Minutes and was not awarded to a single bidder. He noted that they acknowledged that at the time of the audit inspection they could not immediately access the documents as raised because they were to be retrieved from the institution's archives; however, they were able to retrieve the same later. A Consultant by the name Eng. Alex Buigut was engaged competitively to supervise the above project. Refer to Consultant acceptance letter. Procurement records in regard to Tender Committee procedural records have been attached and include the following:

- Prequalified Suppliers
- Evaluation Committee Minutes

It was true that it was not possible to distinguish payments relating to Laboratory or the Kitchen Annex. The laboratory and the kitchen annex was one project housing the Institutional Management & Food Laboratory (IM & FL) AND a Kitchen Annex. The building was enjoined and the works were not practicably separate for the twin blocks. In fact, public works certificates indicated the project as one referred to as 'PROPOSED ERECTION AND COMPLETION OF INSTITUTIONAL MANAGEMENT AND FOOD LABORATORY (KITCHEN ANNEX) AT ELDORET POLYTECHNIC MAIN CAMPUS'. Refer to the Public Works Certificate NO.5 dated 11th August, 2013.

It was true that the initial total cost of the project was Kshs. 152,000,000.00. This was before the additional new design of a Kitchen Annex was enjoined costing Ksh. 60,000,000.00. The break down for the overall project cost was Ksh. 250,000,000.00 as indicated below;

1. Initial project cost without the Kitchen Annex refer to Cert. no.5 dated 28.9.2009 Ksh.152M
2. Labour cost as per cert. no. 6 dated 6th October, 2011 Ksh. 15.2M
3. 15% variation as per cert. no. 12 dated 10th October, 2012 Ksh.22.8M
4. New design Kitchen Annex as per cert. no. 2 dated 17th September, 2012 Ksh. 60m. The project is complete and in use. Attached is completion certificate and summary of statement for payments on accounts which have been forwarded to auditors for review.

Committee Observations and Findings

(i) The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.

(ii) The Committee marked the matter as resolved.

209.4.2. Construction of an Applied Science Laboratory

As reported in 2014/2015, examination of available records in the Ministry indicate that in 2011/2012 and 2012/2013 financial years, funds totaling Kshs.49,650,000.00 were disbursed to Eldoret polytechnic towards the construction of an Applied Science Laboratory project. However, scrutiny of the Public Works certificates availed by the Ministry indicated that the initial estimated project cost of Kshs.62,000,000.00 was varied to Kshs.285,000,000.00 by unexplained variance of Kshs.223,000,000.00 or about 360%. Further, no procurement and payment records relating to the project were availed for audit review and the project had stalled as at the time of the audit.

In the circumstances, in the circumstances it has not been possible to confirm the propriety of the variation of Kshs.223,000,000.00.

Submission by the Accounting Officer

It was true that in the year 2011-2013 Kshs.49,650,000.00 was disbursed to Eldoret Polytechnic towards construction of Applied Science Laboratory Project. The total project cost was Kshs.

60,000,000.00 as per certificate No.1 dated 2ndFebruary, 2009. That was a non-storey building structure. However, in the subsequent period the structure was revised to carry one storey (First floor) and the cost was then revised to Ksh.120,000,000.00 as per the certificate No. 4 dated 26thSeptember, 2009.

The college in the period between 2011 and 2013 utilized the total amount disbursed as per the auditor's observations. Apparently if there were any subsequent requests for variations to Ksh. 285,000,000.00 as raised in the query, then they were not honored because PPOA had scrapped labour based contracts and any requisition for variations were not disbursed because of the legal dispensation then (Refer to the polytechnic's letter Ref: P/ADM/1/18 dated 12thOctober, 2011). Thus, the project stalled due to non-funding of the same. However, the works were later on awarded through tender system. Refer to Tender award dated 30thJune 2015, Notification of award to the contractor namely Harmo Engineering &Building Co. Ltd and acceptance of the same dated 17thJuly 2015 which have been forwarded to auditors for review.

Committee Observations and Findings

(i) The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.

(ii) The Committee marked the matter as resolved

209.4.3. Unsigned Schedules for Payment of Labourers

As reported in 2014/2015, examination of payments records reveals that the Institute paid Kshs.12,698,880.00 to casual workers but the supporting schedules were not signed by the respective workers. Further, available information indicated that some of the workers rendered services in many different areas within a week. It is not practical for one to be engaged in the works of walling, roofing, plastering, plumbing, electrical works and keying at the same time. In the circumstances, the total expenditure of Kshs.12,698,880.00 on labourers could not be confirmed as a proper charge to public funds.

Submission by Accounting Officer

The auditors stated that during audit inspection, the record revealed that the Institute paid Kshs.12, 698,880.00 to casual workers whose supporting schedules were not signed by the respective workers.

The true position was that the requisitions for payment were usually done prior to actual payments with the list which indicated amounts to be paid and copies of the same were then used by the supervisor to pay and at that point each labourers would sign against his/her names and be filed in the payroll. This would be way later after cash requisitions had been done.

In this situation then, what was referred to as 'unsigned schedules' were cash requisitions for the laborers awaiting cash disbursements by the supervisor. Payroll schedules which were duly signed by laborers upon payment by the supervisor have been attached and the same have been forwarded to auditors for review.

Committee Observations and Findings

(i) The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.

(ii) The Committee marked the matter as resolved.

209.5. Kiirua Technical Training Institute - Stalled Library Complex Project

As reported in 2014/2015, examination of the procurement records at the Kiirua institute revealed that on 20 December 2011 the tender committee awarded a contract for the construction of phase one of the proposed library complex to a contractor at a contract cost of Kshs.32, 923,770 for a contract duration of 25 weeks. The contract was signed on 13 February, 2012 and the works commenced on 14 February 2012, an extension of completion period of 18 weeks was sought and granted by the client resulting in revised contract duration of 43 weeks.

Further, records held at the Institute revealed that a variation of Kshs.11, 858,435 or approximately 38.35% of the contract sum was sought from the parent Ministry by the project manager. The Ministry declined the variation and thereafter the project manager scaled down the works to save an estimated amount of Kshs.11, 422,025. As at the time of audit Kshs.25, 542,506.40 had been paid to the contractor yet the building had only been done up to first floor and thereafter stalled. No evidence of approval of variation of scope of works as required by section 47 of the Public Procurement and Disposal Act, 2005 was availed for audit review. The variations also exceeded the 15% acceptable threshold as per the then Act. Although the project was incomplete, the contractor had written demand notices of payment of the outstanding balance on certified amount together with the accrued interest. In the circumstances the stakeholders may not have obtained value for their resources.

Submission by the Accounting Officer

It was true that on 20thDecember, 2011, the tender committee awarded a contract for the construction of phase one of the proposed library complex to a contractor at a contract cost of Kshs. 32,923,770.00 for a contract duration of 25 weeks. It is also true that an extension of completion period of 18 weeks was sought and granted to the client resulting in revised contract duration to 43 weeks.

It was also true that a variation of Kshs.11,858,435.00 was sought from the parent Ministry by the project manager. The ministry declined the variation and therefore the project manager scaled down the works to save an estimated amount Kshs.11,422,025.00. We however wish to state that the project was completed as per attached certificate of completion and handed over as per attached handing over certificate which has also been forwarded to the auditors for review.

Committee Observations and Findings

(i) The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.

(ii) The Committee marked the matter as resolved

209.6. Rwika Institute of Technology

209.6.1 Construction of the Multi-Complex Hall

Examination of available records indicate that on 22thSeptember 2011, the Institute awarded a contract for the construction of a Multi complex hall to a contractor at a contract sum of Kshs.51,435,699 for a period of 52 weeks. Examination of records held at the Ministry revealed that Kshs.53, 000,000 had already been disbursed to the institute towards completion of this development project out of which only Kshs.28,351,830.29 had been paid to the contractor as at

30th June 2015 leaving an unutilized balance of Kshs.24,648,170.00. The resultant difference of Kshs.24,647,025.00 has not been accounted for. Further, physical verification of the project/building revealed that the project stalled at the superstructure level and there are no progress reports indicating the percentage of completion. It was also noted that the contractor vacated the site in 2013. It is not clear and management has not explained if and when the project will be completed and when the stakeholders will obtain value for their resources.

Submission by the Accounting Officer

It was true the tender for construction of multi-Complex hall was awarded on 22nd September, 2011 at a contract sum of Kshs.51,435,699.00 to Kamuti building contractors. This was an on-going project funded by the government of Kenya and the funding was piece-meal, i.e. bit by bit over various financial years. By the time the contract was being awarded, the government had not fully disbursed the total contract sum of Kshs.51,435,699.00.

All the Ministry disbursements of fund for development purposes were received in the Institute Bank Account number 2026031233 in Barclays and then the funds were transferred to the Development Account number 112147226 in Kenya Commercial Bank. Bank statements are attached to show the transfer of funds and the Balance as at the time of audit.

It was true the contractor had deserted the site due to death of an employee (worker) on the site as a result of accident during the construction works on 19/12/2012; hence there were legal issues on the death of the worker. The contractor however went back on site and is continuing with the works as per attached photos and other accounting documents which have been given to the auditors for review.

Committee Observations and Findings

(i) The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.

(ii) The Committee marked the matter as resolved.

209.6.2 Sewerage and Drainage System

As reported in 2014/2015, examination of records held at the Ministry and the Institute revealed that Kshs.19, 842,175.00 had been disbursed during the year under review as a special grant from the Ministry towards completion of the sewerage project. The Institute awarded a contract to a firm at a contract sum of Kshs.18,482,222.00 towards completion of the above project. However, examination of payment records indicate that Kshs.15,556,216.35 has been paid to the contractor leaving a balance of Kshs.2,926,005.65 to the contractor and Kshs.4,285,958.65 as unutilized funds.

Further, the development account bank statements of the Institute as at 31st December 2014 reflect a debit balance of Kshs.1,145.00 indicating that the amount transferred from Ministry as special grant had been exhausted.

In the circumstances, it was not possible to establish how the unutilized balance of Kshs.4, 284,813.65 had been utilized.

Submission by the Accounting Officer

It was true the institute was granted Kshs.19,842,175.00 as a special grant for sewerage project. Tender for construction of sewerage project was awarded to M/S Pashiloh General Merchants at tender sum of Kshs.18,482,222.00.

The Ministry disbursements of fund for development purposes were received in the Institute Bank Account number 2026031233 in Barclays and then the funds were transferred to the Development Account number 112147226 in Kenya Commercial Bank. Bank statements were attached to show the transfer of funds and the Balance as at the time of audit and the same forwarded to the auditors for review.

Committee Observations and Findings

The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.

The Committee marked the matter as resolved.

209.7. P.C. Kinyanjui Technical Training Institute

209.7.1 Construction of Resource Centre at PC Kinyanjui Technical Training Institute

As previously reported, the Institute awarded phase II of the above works to a contractor at a contract sum of Kshs.20, 225,192.00. A physical verification of the project in August 2015 revealed that the project was incomplete as finishes and metal fabrications had not been done. Thereafter, the contractor presented a claim for unpaid dues amounting to Kshs.11,944,946.00. Although the institute disputed the claim, the management had not computed the actual amount due to the contractor.

Further, the contractor raised a parallel bill of quantities dated 7th April, 2015 comparing the original bill of quantities and the re-measured works for the project indicating that the project cost varied from Kshs.20,225,192.00 to Kshs.25,264,778.00 by Kshs.5,039,586.00 whose supporting analysis was not availed for audit review. In the circumstances, the Institute risks litigation from the contractor and may be in contravention of the Public Procurement and Disposal Act, 2005 and related Procurement and Disposal Regulations of 2006.

Submission by the Accounting Officer

It was true the institute awarded phase II of the above works to a contractor at a contract sum of Kshs.20,225,192.00. The contract whose sum of Ksh.20,225,192.00 was for the 2nd phase of the whole project which was not expected to go to final completion. The roofing and the undone finishes were expected to be in phase III. Details of the actual works as detailed in the Bills of Quantities and form of Agreement have been submitted to auditors for review.

He also stated that there was no approval on the claim for variation by Ksh.5,039,586.00, and thus was not paid.

It was important to note that the contractor was paid all the amounts due to him as per contract. Going by the discussion with the representatives of the contractor, no litigation was expected since the matter was been amicably resolved.

Committee Observation and Finding

The Committee marked the matter as resolved.

209.8. Idle Equipment

As reported in 2014/2015, documentary evidence availed for audit review indicate that on 1 March 2011, the Government of Kenya through the Ministry of Higher Education entered into an agreement with the Republic of China represented by AVIC International Holding Corporation under the Kenya-China project on rehabilitation and upgrading of equipment in Universities and Technical Training Institutes. One (1) university and nine (9) Technical Training Institutes were supplied with electrical/ electronic engineering, mechanical engineering, rapid prototyping manufacturing laboratories and diesel generators at a cost of US $ 29,281,624.00 or approximately Kshs.2, 490,159,083.00. A physical verification of the equipment in all the ten Institutes revealed that the equipment have not been utilized to full capacity and the generators have also not been put to use. The Ministry has explained that the equipment requires a three (3) months phase power supply to operate and that plans are underway to upgrade the power supply in order to operationalize the equipment. In the circumstances, the stakeholders may not have obtained value for their resources from equipment worth Kshs.2, 490,159,083.00 supplied to the ten (10) Institutions of higher learning.

Submission by the Accounting Officer

The Ministry has ensured that the equipment is put to use and value for resources is achieved through the following measures; two trainers from the beneficiary institution were trained in China for 120 days, on the operation and use of the equipment to ensure efficient use of equipment and training of students. The institutions are now able to produce machine parts for local factories and private sector as a whole since the equipment is of industrial standard.

A transformer from Kenya power and lighting company to operate all the equipment has been installed in all the institutions except Keroka TTI (which is ongoing) through the support of the county governments and other stakeholders; however, a 100 KW generator is in use at Keroka TTI. At the moment more students are enrolled in mechanical and electrical engineering courses and are using the equipment that can be powered by the transformer available. Value for resources is realized as the institution can now offer training in mechanical and electrical engineering courses to more students with the state of art equipment in the workshops. A report on equipment usage from Shamberere and Keroka TTIs have been forwarded to the auditors for review.

Committee Observations and Findings

- **(i) The Committee directed the Office of the Auditor General to verify documents tabled by the State Department and report back to the Committee as soon as possible.**
- **(ii) The Committee marked the matter as resolved.**

Other Matter

210. Budgetary Control and Performance

The State Department of Science and Technology had a total budget of Kshs.73,483,600,749 voted for the financial year 2015/2016 comprising of Kshs.13,106,559,192 for the development vote and Kshs.60,377,041,557 for the recurrent vote. The budget absorption rates in the state department were as follows:-

Vote	Budgeted Allocation 2015/2016	Actual Expenditure 2015/2016	Under Absorption	Absorption in %
	Kshs	**Kshs**	**Kshs**	
Development	13,106,559,192.00	10,487,898,283.00	(2,618,660,909.00)	80%
Recurrent	60,377,041,557.00	59,510,570,624.00	(866,470,933.00)	90%
TOTAL	**73,483,600,749.00**	**69,998,468,907.00**	**(3,485,131,842.00)**	

It has not been explained why the Ministry did not utilize the budget allocation in whole.

Committee Observation and Finding

The Committee marked the matter as resolved.

211. Recurrent Vote

The budget performance analysis for the recurrent budget totaling Kshs.60,377,041,557.00 is as detailed below:

Item	Budgeted Allocation 2015/2016	Actual Expenditure 2015/2016	Under Absorption	Absorption in %
	Kshs	**Kshs**	**Kshs**	
Compensation of Employees	569,997,655.00	524,444,447.00	-45,553,208.00	92%
Use of goods and Services	1,321,371,296.00	760,233,349.00	-561,137,947.00	58%
Subsidies	56,000,000.00	56,000,000.00	0	100%
Transfers to Other Government Units	49,203,063,102.00	49,080,673,237.00	122,389,865.00	100%
Other Grants and Transfers	262,000,000.00	211,725,890.00	-50,274,110.00	81%
Social Security Benefits	5,000,000.00	0	-5,000,000.00	0%

Acquisition of Assets	8,959,609,504.00	8,877,493,701.00	-82,115,803.00	99%
Grand Total	**73,483,600,749.00**	**69,998,468,907.00**	**(3,485,131,842.00)**	**99%**

As the analysis shows, the Ministry underutilized the budget under use of goods and services and social security benefits by 42% and 100% respectively. This may imply 112 that the Ministry had over budgeted or did not offer the envisaged services during the year under review.

Committee Observation and Finding

The Committee marked the matter as resolved.

212. Development Vote

The budget performance analysis for Development vote budget totaling Kshs.3,106,559,192.00 was as detailed below:

Item	**Budgeted Allocation 2015/2016**	**Actual Expenditure 2015/2016**	**Under Absorption**	**Absorption in %**
	Kshs	**Kshs**	**Kshs**	
Compensation of Employees	0	0	0	0%
Use of goods and Services	2,588,962,412	1,327,267,128	-1,261,695,284	51%
Transfers to Other Government Units	2,339,200,469	2,330,950,837	-8,249,632	99.6%
Other Grants and Transfers	9,320,230	909,400	-8,410,830	80%
Acquisition of Assets	8,169,076,081	8,877,493,701.00	-82,115,803.00	90%
Grand Total	**13,106,559,192**	**10,487,898,283**	**-2,618,660,909**	**80%**

As the analysis shows, the Ministry underutilized the budget under use of goods and services by 49% which implies that the Ministry had over-budgeted or did not offer services envisaged for delivery to the citizens during the year under review.

However, overall, the Ministry's absorption rate for development expenditure was 80% which indicates a fairly good rate of use of allocated funds.

Committee Observation and Finding

The Committee marked the matter as resolved.

212.1 Land Ownership

Review of the Ministry's records relating to the new sixty (60) technical training institutes revealed that the Director, Technical Vocational Education Training (TVET) through a letter Ref. No.MST/DTE/6/5/VOL.V dated 12 November 2014 directed all the mentoring institutions for the new technical training institutes not to commence any construction works before title deeds for the sites are submitted by respective area Members of Parliament. The title deeds were among documents expected to be handed over to the appointed principals. It was however, established that twenty-five(25) sampled institutes stand on land that did not have title deeds as proof of ownership contrary to the Ministry's directives. Consequently, ownership of the land acquired for construction of sixty (60) new TTIs could not be ascertained at the time of audit.

Submission by Accounting Officer

The Accounting Officer stated that the directive is still in force; however, bearing in mind that a big percentage of Kenyan land has no land deeds, the directorate reviewed the status of each and every new institution on a case by case basis. Those institutions located in areas which are unmapped were allowed to commence construction works with the understanding that they commence the process of acquiring the land deeds with immediate effect. Some institutions have so far obtained the title deeds and others are in the process.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were provided and verified.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

DONOR FUNDED PROJECTS

SUPPORT FOR TECHNICAL, INDUSTRIAL, VOCATIONAL AND ENTREPRENEURSHIP TRAINING PROJECT (ADF LOAN NO 2100150018493)

Basis for Qualified Opinion

213. Construction of Wajir Technical Training Institute

In March 2012, the Ministry undertook to construct eight (8) new Technical Training Institutes, and engaged various contractors at a total contract sum of Kshs.763,442,178.49. According to contracts signed between the Ministry and various contractors, the works were to commence immediately and be completed within fifty-two (52) weeks in March 2013.

Examination of contract documents for the eight (8) new Institutes in October 2016 revealed that the works at Wajir Technical Institute were at 60% complete while the contractor had been paid

Kshs.33,447,842 or 40% of the contract sum of Kshs.82,315,014.35 as at 30 June 2016. The contract period for construction of the Institute ended on 30 September 2016 and no evidence of extension of the contract period was presented for audit review. Therefore, completion of the project was way behind schedule. Although the Ministry had attributed the delays in project completion to insecurity in the area, no evidence of requests for extension of contract period from the contractor or minutes confirming approval of contract extension period was presented for audit review. Therefore, the contractor remained on site without a valid contract, in violation of Section VII Clause 2.2 of the Contract Agreements that provides for renewal of contract period upon expiry.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were provided and verified.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

214. Construction of Mechanical Engineering Workshop-Nyeri Technical Training Institute

As previously reported, the works at the Nyeri Technical Institute were awarded to a contractor on 19 October, 2011 at a revised contract sum of Kshs.89,535,031 for a duration of twelve (12) months. As at September 2016, the Ministry had paid a total of Kshs.83,019,909.17 out of which Kshs.30,334,426.80 was paid during the year under review and also included in the statement of receipts and payments under purchase of goods and services balance of Kshs.291,572,488.00. Further, no certificate of completion from the supervising consultants was presented for audit review. In addition, no satisfactory reasons were provided to explain the delay in completion of the project. In the circumstance, it has not been possible to confirm if and when the construction work will be completed or whether the taxpayers will get value for their resources spent on the engineering workshop.

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were provided and verified.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

SUPPORT TO ENHANCEMENT OF QUALITY AND RELEVANCE IN HIGHIER EDUCATION, SCIENCE AND TECHNOLOGY JECT (No. P-KE-IAD-001

Purchase of Goods and Services

The Ministry entered into supply contracts with various suppliers for supply of engineering equipment to selected public university. According to the contracts, the supplies were to be paid an advance payment of 20% upon signing of contracts and submission of a bank guarantee of an equivalent amount. A further 60% of the contract sum was payable upon shipment and submission of shipping document and a final payment of 20% was payable upon receipt and acceptance of the equipment. However, the following omissions were noted:

215.1 Equipment not delivered

Audit verification revealed that equipment worth Kshs.1, 243,842 was not delivered to three universities despite having been paid for as detailed below:

	University	Equipment	Quantity	Amount
1	Technical University of Kenya	Electronic precision balance	1	446,414.00
2	Technical University of Kenya	Small greenhouse kit	1	594,312.00
3	University of Nairobi	Universal power supply	1	203,116.00
	TOTAL			**1,243,842.00**

Submission by the Accounting Officer

She admitted that Audit verification revealed that equipment worth Kshs.1, 243,842 was not delivered to three universities despite having been paid for. She responded as per the details in the table below: -

	University	Equipment	Amount	mentation Status
1.	Technical University of Kenya	electronic precision balance	**446,414.00**	This is to confirm that the item was supplied, paid for and is currently in use by the university and the auditors have verified.
2.	Technical University of Kenya	green house	**594,312.00**	The university did not have adequate space to accommodate the green house as the university is in an eight-acre plot that hosts many infrastructural facilities. Consequently, the item was deleted from the list of equipment to be supplied as per the letter from the university The supplier was only paid for the items supplied as the cost of the green house was subtracted from the final contract sum

				during the processing of the payment.
3.	University of Nairobi	Universal power supply	**203,116.00**	Power supply was delivered to the institution as indicated in the delivery note but during the time of audit verification it was not traced as it was in one of the several workshops in the university. The Ministry has followed up with the university and it has been confirmed from the Department that the item is in the university. The equipment is currently in use and the auditors have verified.
			1,243,842.00	

Committee Observations and Findings

The Committee, with concurrence from Office of the Auditor General observed that the issue has been resolved since the documents were provided and verified.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

KENYA ITALY DEBT FOR DEVELOPMENT PROGRAMME (KIDDP)

Basis for Disclaimer of Opinion

219. Unconfirmed Bank Balances

219.1 The statement of financial assets and liabilities as at 30thJune, 2016 reflects cash and cash equivalents' balance of Kshs.148,549,574.00 whose accuracy could not be confirmed as the bank reconciliation statement was not presented for audit review.

219.2 The statement of cashflows for the year ended 30thJune 2016 reflects a balance of Kshs.109,834,224.00 as cash and cash equivalents at the beginning of the year which differs with the cast and certified balance of Kshs.109,390,684.00. The resultant variance of Kshs.443,541.00 has not been reconciled.

In the circumstances, the accuracy and validity of the cash and cash equivalents' balance of Kshs.148,549,574.00 as at 30 June 2016 could not be ascertained.

The auditors reported that the bank reconciliation statements had still not been presented to them. The committee resolved that the State Department and the auditors should conclude the matter.

11.0. MINISTRY OF HEALTH

FINANCIAL STATEMENTS FOR VOTE 1081

Mr. Peter Tum, the Accounting Officer for Vote 1081, Ministry of Health appeared before the Committee on 11th July 2018 to adduce evidence on the audited on accounts forthe Ministry of Health for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **Mr. Kilu A.M - DCHAO;**
2. **Mr. Peter Odundo - Senior Chief Finance Officer;**
3. **Mr. Moranga Morekwa - Under Secretary Administration;**
4. **Mr. I. M Abdi - Deputy Secretary Administration;**
5. **Mr. F. N Njau - Internal Auditor;**
6. **Mr. Joel K. Sego - Chief Accountant;**
7. **Mr. Manasseh Bocha - CCO;**
8. **Mr. Charles Korir - Personal Assistant to PS;**
9. **Dr. L.M. Thiga - DDMs;**
10. **Dr. Izau Odongo - DDMS;**
11. **Mr. Kamau Maina - Communication Officer; and**
12. **Dr. Joseph M. Kiraita - DHAU**

Basis for Qualified Opinion

231. Cash and Cash Equivalents

231.1 Un-surrendered Old Deposits Balances from Former Ministries

As previously reported, included in the statement of financial assets as at 30 June, 2016 is cash and cash equivalents amount of Kshs.80,017,247 out of which a deposit amount of Kshs.7,701,815 had no supportive documentary evidence. Further, information revealed that deposits totalling Kshs.10,956,114,687 that were held in former Ministries of Medical Services and Ministry of Public Health and Sanitation which merged to form Ministry of Health were never transferred to the new deposit account, contrary to Treasury Circular No.AG/CONF.17/01/65 dated September, 2013 which required deposits in former Ministries to be analyzed and transferred to a new account. Consequently, the accuracy and validity of the cash and cash equivalent balance of Kshs.80,017,247 included in the statement of financial assets could not be confirmed.

Submission by Accounting Officer

The accounting officer stated that it was true that the Ministry reported Ksh 80,017,247 out of which Ksh 7,701,815 was deposit cash balances in the financial statements which had no supportive documentary evidence. The Ministry has since provided documentary evidence to support the deposit cash balances of Kshs 7,701, 815 for audit review.

The accounting officer stated that it was also true that an amount of Kshs.10,956,114,687 is accumulated balances of former Ministries of Medical Services and Public Health and Sanitation that is still outstanding. The unsurrendered deposit balances relates to old balances of the former Ministries of Public Health and Sanitation and Medical Services. The Ministry has since analyzed and reconciled the two books of accounts; and we wish to report that the actual balance in the books is Ksh.71,306,375.25 as per attached statement of accounts and the same have been submitted to The National Treasury for concurrence and subsequent clearance by the Office of the Auditor General.

Committee Observations and Findings

(i) **The explanation by the Accounting Officer that documentation relating to kshs 7,701, 815 and Ksh.71,306,375.25 had been submitted to the Auditor General for audit review was reasonable.**
(ii) **Kshs 10,956,114,687 is accumulated balances of former Ministries of Medical Services and Public Health and Sanitation that is still outstanding.**

Committee Recommendations

(i) **The Accounting Officer should consult the National Treasury on the most appropriate manner to resolve the matter of relating to the outstanding balance of Kshs 10,956,114,687.**
(ii) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

231.2 Un-Reconciled Balances Between Manual and IFMS Cash Books

Review of the Ministry's cash book records versus IFMIS records reflects a net total variance of Kshs.21,743,531,612 between the two set of records as detailed below:

	Manual Records	**IFMIS Records**	**Difference**
Development	Kshs	**Kshs**	**Kshs**
Bank	35,259,061.83	(7,607,743,290.20)	7,643,002,352.03
Cash	-	17,193,983,524.55	(17,193,983,524.55)
Recurrent			
Bank	57,482,519.00	(14,182,676,124.40)	14,240,158,643.40
Cash	-	26,125,536,297.05	(26,125,536,297.05)
Deposit			
Bank	7,701,814.70	299,455,252.35	(291,753,437.65)
Cash	-	15,419,348.55	(15,419,348.55)
Total	**100,443,395.53**	**21,843,975,007.90**	**(21,743,531,612.37)**

In the circumstances, it has not been possible to confirm the accuracy and validity of cash and cash equivalents' balance of Kshs.80,017,247 included in the statement of financial assets.

Submission by Accounting Officer

The accounting officer stated that it was true that the Manual records and IFMIS Cashbook reflected varying figures as indicated here below;

CASHBOOK TYPE	MANUAL	IFMIS	DIFFERENCE
A: DEVELOPMENT			
Bank	35,259,061.83	(7,607,743,290.20)	7,643,002,352.03
Cash	-	17,193,983,524.55	(17,193,983,524.55)
B: RECURRENT			
Bank	57,482,519	(14,182,676,124.40)	14,240,158,643.40
Cash	-	26,125,536,297.05	(26,125,536,297.05)
C: DEPOSIT			
Bank	7,701,814.70	299,455,252.35	(291,753,437.65)
Cash	-	15,419,348.55	(15,419,348.55)

We wish to report that IFMIS system has been having challenges but Treasury is rectifying them. Manual reconciliations between the Cashbook and the bank statement was updated accordingly and the auto reconciliation in IFMIS is ongoing to clear the variances.

Committee Observations and Findings

(i) The explanation of the Accounting Officer that manual reconciliations between the Cashbook and the bank statement have been updated and the auto reconciliation in IFMIS is ongoing to clear the variances was reasonable. However, the matter remains unresolved insofar as the same have not been submitted for audit verification and therefore, it has not been possible to confirm the accuracy and validity of cash and cash equivalents' balance of Kshs.80,017,247 included in the statement of financial assets.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

232. Outstanding Imprest and Advances

The statement of financial assets as at 30 June 2016 reflects outstanding imprests and advances totaling Kshs.7,649,699. Included in this is imprest of Kshs.7,291,080 which ought to have been accounted for on or before 30 June, 2016 but was still outstanding as at the time of audit in February, 2017. It was also observed that various officers were issued with multiple imprests before accounting for the previous ones contrary to Government Financial Regulations and Procedures governing the issue of imprest. No reason has been given for this irregularity. In the circumstance, it has not been possible to confirm the validity and accuracy of the accounts receivable, outstanding imprests and advances balance of Kshs.7,649,699.

Submission by Accounting Officer

The accounting officer stated that it was true that the financial statements reported Ksh 7,649,699 as outstanding imprests and salary advances. It is further true that Ksh.7,291,080 refers to outstanding imprests as at 30th June 2016.

The accounting officer informed the Committee that all the outstanding imprests as at the 30th June, 2016 were accounted for during the financial year 2016/17.

Committee Observations and Findings

The explanation of the Accounting Officer that all outstanding imprests as at the 30th June, 2016 were accounted for during the financial year 2016/17 was reasonable but did not offer an explanation that various officers were issued with multiple imprests before accounting for the previous ones contrary to the provisions of regulation 93(2) of the Public Finance Management (National Government) Regulations, 2015 governing the issue of imprest.

Committee Recommendations

(i) **Accounting officers must at all times ensure that thatthey do not issue an officer with multiple imprests before accounting for the a previous one contrary to the provisions of regulation 93(2) of the Public Finance Management (National Government) Regulations, 2015.**
(ii) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

233. Compensation of Employees

The statement of receipts and payments for the year ended 30 June 2016 reflects compensation of employees' figure of Kshs.5,774,486,223 which, when compared against the Integrated Personal Payroll Data (IPPD) report on the same of Kshs.5,095,249,117 results in unsupported expenditure of Kshs.679,237,106. Further, included in personnel cost of Kshs.5,774,486,223 is expenditure of Kshs.249,972,515 in respect of payments to Ministry's contribution to Insurance Scheme which has not been supported.

In the circumstance, it has not been possible to confirm the expenditure on compensation of employees of Kshs.5,774,486,223 included in the statement of receipts and payments.

Submission by Accounting Officer

The accounting officer stated that it was true that the Ministry reported compensation of employee's costs at Ksh. 5,774,486,223 in the financial statements for the financial year 2015/16 which when compared against the IPPD Report on the same of Kshs. 5,095,249,117 results to a difference of Kshs. 679,237,105.75. It is also true that out of the figure above Ksh. 250,000,000 was in respect to transfer payments made in favor of National Hospital Insurance Fund under the Employers contribution to the civil servant's medical scheme, which was wrongly expensed as personal emoluments. Adjustment of the financial statement will be done to reflect the correct classification.

The accounting officer noted that from the fore lying explanations, it can be certainly noted that Ksh. 5,524,486,223.20 relates wholly to employee's costs. It can be further established from IPPD that Ksh.5,095,249,117 out of Ksh.5,524,486,223 was reported as total payments relating to employee cost, therefore resulting to a difference of Ksh.429,437,106.20.

The amount paid outside the IPPD is composed of Officers who were transferred to counties, those reinstated after finalization of their discipline cases and the Registrars/ (Doctors in Training) who were caught up with devolution and were stationed in Nairobi and Eldoret Provincial Headquarters.

Committee Observations and Findings

The explanation by the Accounting Officer that the resulting to a difference of Ksh.429,437,106.20 is composed of Officers who were transferred to counties, those reinstated after finalization of their discipline cases and the Registrars/ (Doctors in Training) who were caught up with devolution and were stationed in Nairobi and Eldoret Provincial Headquarters was sufficient to confirm the expenditure on compensation of employees of Kshs.5,774,486,223 included in the statement of receipts and payments.

Committee Recommendations

Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

234. Expenditure

234.1 Unsupported Expenditure

The statement of receipts and payments for the year ended 30 June, 2016 reflects total expenditure figure of Kshs.42,582,776,899. Included in this figure is expenditure amounting Kshs.1,010,739,793 whose payment vouchers and other related supporting records were not availed for audit review as detailed below:

Component in F/S	Sub Component	Nature	Sub Component Amount	Supported	Unsupported	% Done
Kshs		Kshs			Kshs	
Receipts	proceeds from sale of assets	Sale of assets	14,068,266	12,728,816	1,339,450	90%
Acquisition of assets	Construction of building	Upgrading of Bungoma county referral hospital		100,000,000	100,000,000	0%

Acquisition of assets	Construction of building	Upgrading of Lamu county referral hospital	100,000,000	100,000,000	0%
Acquisition of assets	Construction of building	Kapenguria hospital (debt swap)	20,000,000	20,000,000	0%
Acquisition of assets	Construction of building	Usenge dispensary	30,000,000	30,000,000	0%
Acquisition of assets	Construction of building	Kigumu hospital (debt swap)	20,000,000	20,000,000	0%
Acquisition of assets	Construction of building	Proposed upgrading of Nanyuki District Hospital	223,622,147	223,622,147	
Use of goods	Special materials	Letter of credit coop bank	265,781,500	265,781,500	0%
Food rations		249,996,696	249,996,696	0%	
Total		**1,087,050,659**	**12,728,816**	**1,010,739,793**	

234.2 Misapplication of Funds

The statement of receipts and payments for the year ended 30 June 2016 reflects total expenditure figure of Kshs.42,582,776,899. Included in this figure is expenditure amounting to Kshs.1,324,962,316 whose expenditure was misapplied and thus contravened the Public Finance Management Act, 2012 as follows:

Item	**Component charged**	**Correct component**	Amount
			Kshs
Portable clinics	Use of goods	None current assets	600,000,000
Portable clinics	Transfer to other government unit-free maternity	None current assets	200,000,000
Conditional grant for upgrading Bungoma County Referral Hospital	Non-current assets-construction of building	Transfer to other government unit	100,000,000
Conditional grant for upgrading Lamu County Referral Hospital	Non-current assets-construction of building	Transfer to other government unit	100,000,000

Payments for managed equipment services-lot	Non-current assets-construction of building	Use of goods-rental assets	167,868,712
Proposed extensions in block a for government chemist department, ministry of health	Use of goods-specialised materials	Non-current assets-construction of building	3,350,857
Purchase of stationery	Non-current assets-construction of building	Use of goods-stationery	1,100,000
Proposed upgrading of Nanyuki district hospital	Transfer to other government unit-free maternity	Non-current assets-construction of building	16,792,222
Managed equipment project under lot 5-early works	Non-current assets-construction of building	Use of goods-rental assets	19,199,408
Rehabilitation of Embu Provincial General Hospital	Transfer to other government unit-free maternity	Non-current assets-construction of building	27,891,647
Proposed completion works to Othaya Sub-District Hospital	Transfer to other government unit-free maternity	Non-current assets-construction of building	12,587,450
Supply of Ebora POE	Transfer to other government unit-free maternity	Other grants and transfers-emergency	19,800,000
Medical supplies	Transfer to other government unit-free maternity	Use of goods-specialised materials	5,371,000
Medical supplies	Transfer to other government unit-free maternity	Use of goods-specialised materials	5,532,300
Ebora transmission posters	Transfer to other government unit-free maternity	Other grants and transfers-emergency	21,090,000
Newspapers	Transfer to other government unit-free maternity	Use of goods-advert	2,678,720
Fuel	Transfer to other government unit-free maternity	Use of goods-fuel	2,000,000

Supply of Ebora POE	Transfer to other government unit-free maternity	Other grants and transfers-emergency	13,900,000
Equipment	Transfer to other government unit-free maternity	Acquisition of assets	25,600,000
Total			**1,324,962,316**

In the circumstance, it has not been possible to determine the accuracy and validity of the expenditure of Kshs.1,324,962,316 included in the total expenditure of Kshs.42,582,776,899 in the statement of receipts and payments.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the above listed documents were not availed at the time of audit verification but some were later provided for audit review, other than those with Ethics & Anti-Corruption Commission.

The accounting officer stated that it was true that the above detailed expenditures were charged to the components specified in the table. The Ministry was clearing pending bills from 2014/15 financial year which formed the 1st Charge in the 2015/16 financial year budget. The Ministry confirms that there were no funds lost or misappropriated.

The accounting officer confirmed that this does not change the overall expenditure of Kshs. 42,582,776,899**.**

Committee Observations and Findings

- **(i) The explanation of the Accounting Officer that The Ministry was clearing pending bills from 2014/15 financial year which formed the 1st Charge in the 2015/16 financial year budget and that the same did not change the overall expenditure of Kshs. 42,582,776,899 was insufficient insofar as it didoffer an explanation for failure to provide payment vouchers and other related supporting records expenditure amounting to Kshs.1,010,739,793 for audit review and an explanation for misapplication of funds amounting to Kshs.1,324,962,316 .**
- **(ii) The Committee observed that the Ministry continued to incur expenditures on construction of health facilities even though health functions including the management and construction of new health facilities had been transferred to counties way back in 2013. Further, the Committee noted a general increase in the amount of money allocated to the Ministry of Health for expenditure on projects that appear to have been devolved to the county governments.**
- **(iii)The Committee noted that the matter was under active investigation by the EACC.**

Committee Recommendations

- **(i) Funds from the national government should not be allocated to the Ministry of Health to undertake functions that belong to the county governments under part II of Schedule 4 of the Constitution. The funds should, instead, be channeled as conditional**

grants to the county governments for implementation of specific projects pursuant to the Public Finance Management Act, 2012 and section 84 of the Health Act, 2017.

(ii) Within three months upon adoption of this report, the EACC should conclude the on-going investigations, if any, and commense prosecution of all individuals found culpable.

235. Irregular Payment on Portable Clinics

The Ministerial Tender Committee awarded a contract for supply of portable medical clinics to an investments company vide Ministerial Tender Committee minutes No. MOH/MTC/.37/2014-2015 held on 29 June, 2015 to supply one hundred (100) portable medical clinics at Kshs.10,000,000 each, the total cost being Kshs.1 billion. On 17 July 2015, the contract to supply, install, commission and hand over was signed between the Investment company and the Ministry. The contract period was to be from the date of signing of the contract to the end of financial year 2015-2016. This contract has since elapsed despite the fact that the contract has not been executed. During the 2015-2016 financial year, the Ministry paid Kshs.800,000,000 for the portable clinics but before they were installed, commissioned and handed over, thus contravening the contractual agreement. Further, information available indicates that the containers were stored in government premises in Mombasa despite the fact that ownership has not passed to the Government.

Consequently, it has not been possible to determine whether the Government obtained value for money for the expenditure of Kshs.800,000,000.

Submission by Accounting Officer

The accounting officer stated that it was true that the Ministerial Tender committee awarded the contract for supply of portable medical clinics to Estama Investments Ltd vide Ministerial Tender Committee Minutes No.MOH/MTC/RT/.37/2014-2015 held on 29th June,2015 to supply one hundred (100) portable medical clinics at a unit cost of Ksh. 10,000,000 each, thus totaling to Ksh. 1,000,000,000.

The accounting officer presented an overview of the slum upgrading programme and the status update:

The health component of the slum upgrading programme was conceptualized by the Government in 2013/14 to improve the health status of underprivileged citizens who live in informal settlements. It was envisaged that the proposed portable medical clinics would be offering primary health care services especially maternity services which is a key result area for the Government. Subsequently, the project was placed under the Ministry of Health for implementation and categorized as a **Priority Project.**

The initial plan was to construct or upgrade health facilities in informal settlements using expanded polystyrene (EPS) panels which is significantly cheaper than conventional construction methods. However due to challenges of obtaining land in the informal settlements, the approach was changed to placement of portable medical clinics which require less space and can be placed temporarily in open spaces in the informal settlements

Contract period elapsed before agreement was executed

This project was conceived as a partnership between the Ministry of Health and benefitting County Governments. The National Government was to procure the portable medical clinics while the benefitting County Governments were expected to contribute through site preparations, staffing, commodity supply and operations and maintenance. However, during the exercise to map the slums to receive the clinics, the County Governments insisted on full National Government support for the project including payment of staff salaries and supply of commodities for the initial 2 years. The Ministry had to address these emerging demands by Counties first in order to clear the way for the supplier to install the clinics. Addressing the demands had budgetary implications and more delay resulted as the Ministry looked for funds to address the demands.

It was important to distinguish between the activities of "site preparation" and "installation of the clinics". Site preparation entails casting of slabs on which the clinic and waiting bay canopies would be mounted; servicing of site with utilities – water, electricity; external sanitation facilities and bulk water storage. This is the responsibility of the client and the estimated cost is 1.5 million per site based on the experience in Nairobi County where 20 sites were prepared;

Installation of the clinic entails placement of the clinic on the prepared slabs, mounting of patient waiting canopies, assembling and testing of medical equipment, fixing and testing of furniture and non- medical equipment such as air conditioners, connection to water and electricity brought to site by client and fixing of small overhead water tank supplied with the clinic. This is the responsibility of the supplier and the cost is covered in the contract sum.

Ministry paid Kshs. 800,000,000 for portable clinics before installing, commissioning and handing over thus contravening the contractual agreement.

The supplier executed a large part of the contract as the clinics were supplied as per specifications. While we acknowledge that there was no provision for part execution of the contract and hence partial payment, it is worth noting that the supplier was not at fault for the incomplete execution of the contract. The Ministry encountered challenges implementing project components initially assigned to Counties and thus could not avail ready sites for the supplier to install the clinics. Since the Supplier was not at fault, the Ministry could not withhold all payment as this would have made the supplier to seek legal redress to the detriment of the Ministry-thus partial payment was in the best interest of the Government.

The supplier remains committed to installation of the clinics; as a demonstration of that commitment, the supplier installed 11 clinics in Nairobi in December 2016.

Containers were stored in Government premises in Mombasa despite the fact that ownership has not passed to the Government.

Following the clearance of the clinics from the Port of Mombasa, the Ministry inspected all of them to confirm that they contained the required equipment, furniture and fittings in the right quantities and quality. Even though this was not a requirement under the contract, delivery notes were subsequently endorsed for all the clinics. The clinics therefore belong to the Ministry of Health and even practically the supplier cannot remove them from the NYS depot without clearance by the Ministry. In the event that the clinics were in the sole custody of the supplier, a huge storage bill would have been pushed to the Ministry.

Value for money for the expenditure of Kshs. 800,000,000.

Under the contract agreement, the supplier was to supply, install, commission and handover the 100 Clinics at a cost of Kshs 1 billion.

Project Justification (initial concept)

(i) The slum areas in Nairobi, Mombasa and Kisumu have large underserved populations that urgently require health services, especially the maternity services. However, as implementation progressed, it was realized that there were slums in other towns and more Counties were subsequently brought on board;

(ii) Cheaper building technology could be leveraged to reduce construction costs. In this regard, construction using the cheaper expanded polystyrene (EPS) panels was targeted. Through a benchmarking assessment of construction work at Ruai Police Station, it was established that using the EPS technology was cheaper by about 15% compared to conventional technology;

(iii) The time taken to construct the facilities using the EPS technology is much shorter compared to conventional building.

Portable clinics versus Construction

No	Container clinic	Construction clinic
1.	Require minimal space and can be placed in chief's camps, schools, temporary sites	Construction usually takes place in owned land
2.	Take less time to establish	Take longer to construct
3.	Customizable – easy partitioning, can use solar or mains power etc	Limited flexibility
4.	Can be relocated	Not movable
5.	Less expensive	Standard building costs apply

Conclusion

- Preparation of 20 sites in Nairobi was completed in quarter 1 of 2016/17 F/Y;
- As at end of December 2016, 11 clinics were installed in Nairobi in areas considered secure – in chief''s camps in the slum areas;
- A total of 89 clinics are still at the NYS Miritini depot;
- The 11 clinics in Nairobi are serving needy Kenyans except a few where there is no enough security and Health Workers to run them.
- The Supplier of the Clinics, MS Estama Investments, has been paid Kshs. 800 million out of the contract sum of Kshs. 1 billion; This money should not go to waste but the process of installing the remaining 89 clinics should be completed to serve more deserving and disadvantaged Kenyans.

- The project objective is noble as it targets the poor and underserved Kenyans;
- Continued delay in installation of the clinics denies critical services to Kenyans and amounts to waste of public resources.

Committee Observations and Findings

(i) The submission of the Accounting Officer advancing reasons relating to the project justification as well was the cost of Portable clinics versus Constructed Clinics did not did not address the audit query satisfactorily.

(ii) The Committee noted that the matter was under active investigation by the EACC.

Committee Recommendations

Within three months upon adoption of this report, the EACC should conclude the on-going investigations, if any, and commense prosecution of all individuals found culpable.

236. Stalled Projects - Proposed Upgrading of Othaya District Hospital Phase I

As previously reported, the Ministry awarded a contract for the upgrading of facilities at Othaya Sub-District Hospital to a local construction firm at a price of Kshs.436,300,799 which was later revised to Kshs.501,745,919. The initial completion period was 85 weeks but was extended to 123 weeks with new completion date being 25 October, 2012. A status report dated 21 February, 2014 indicates cumulative payments of Kshs.501,745,918 representing 99.9% of the revised contract sum of Kshs.501,574,918. At this time 192 weeks had elapsed out of contract period of 123 weeks. The ministry reported an expenditure of Kshs.3,911,981 for construction of Othaya subdistrict hospital which accumulated to Kshs.578,542,747 as at 30 June 2016 which when compared against the initial contract value of Kshs.436,300,798 gives rise to a variation of Kshs.142,241,948 which is about 33% that has not been supported. It was further noted that the above variation excludes a 10% reduction in scope of work which if considered will give variation of up to 43% at the close of the financial year. No project progress reports have been availed for audit review.

Despite this overpayment, the following works were outstanding:

(a) Floor tilling and grouting

(b) Wall tilling

(c) Window glazing

(d) Window stays and fasteners

(e) Ceiling

(f) Fixing of door leaves, locks, and glazing

(g) Internal and external painting

(h) Ramp and staircase finishes

(i) Worktop and counter finishes

(j) Road drainage

(k) Medical gas installation

An inspection of the project on November 2015 revealed that the contractor and subcontractors were not on site. Although it is indicated that the project had been terminated on a mutual agreement, no documentary evidence was made available for audit verification. Further, no evidence has been provided that the performance guarantee had been recalled and discharged against uncompleted works.

Further, information shows that the directorate gave an estimate for completion of outstanding works as Kshs.272,500,000. Though the Ministry put a request to National Treasury for funding, Treasury responded by advising that health was a devolved function and therefore Nyeri County should take over. Further information also revealed that another company was given a new contract to complete the remaining works at a contract sum of Kshs.141,959,487. This has raised the project cost to Kshs.720,331,230 (65% variation).The procurement, contract and progress reports have not been availed for audit review.

Consequently, it could not be ascertained whether the Government obtained value for money for the expenditure of Kshs.578,542,747.

Submission by Accounting Officer

Unsupported variation over the contract sum of Kshs. 436,300,798.

It was true that the cummulative expenditure on the project rose to Kshs. 578,542,747 as at 30 June 2016 which is 33% above the contract sum of Kshs. 436,300,798. It is also true that there was a 10% reduction in scope of work.

It was worth noting that the contract variation was informed by incomplete quantification of works at the design stage. Evidence of this is the project financial appriasal report by the State Department for Public Works which shows that works captured in the Bill of Quantities amounted to Kshs. 408,033,463.80 while the actual work done before termination of contract was 578,371,743.97.

Kshs. 501,574,915.25 was paid within the revised contract sum **.** 501,745,918.50while Kshs. 76,796,828.72 was a direct payment made on the basis of the remeasurement of works and final project account of submitted to the Ministry on 30th April 2014 by the State Department for Public Works (project managers). The reduction of scope of works was approved by the Ministerial Tender Committee on the advise of the State Department for Public Works

Outstanding works.

The accounting officer stated that it was true that the following works were outstanding despite the payment of Kshs. 578,542,747.

a) Floor tiling and grouting
b) Wall tiling
c) Window glazing
d) Window stays and fasteners
e) Ceiling
f) Fixing of door leaves, locks, and glazing

g) Internal and external painting
h) Ramp and staircase finishes
i) Worktop and counter finishes
j) Road drainage
k) Medical gas installation

The outstanding works were not included in the financial appraisal report as it covered work already done by the contractors and not the full scope of works. The amount was computed to inform termination of contract as further progress on implementtion of the project could not be made. With the termination of the contract, outstanding works were to be undertaken as a new contract and the State Department for Public Works gave an estimate of Kshs. 272, 500,000.00.

Evidence of mutual termination of contract

Evidence of mutual termination of the contract consists of the following documents:

- Legal opinion by Attorney General
- Extract of minutes of the Ministerial Tender Committee that adjudicated the termination by mutual consent dated 15th,May 2014
- Letter of MTC communication to the reponsible department

The documentation on termination of the contract was availed for audit review.

Contract for partial completion of Othaya District Hospital of Kshs. 141,959,487

It was true that Lunao Enterprises was awarded a of Kshs. 141,959,487 to partially address the outstanding works to make the hospital operational. The constract was not for full completion of the hospital but for partial completion to enable utilization of parts of the new hospital (outpatient services and limited inpatient services). As rightly observed in the query, this was a new contract different from the initial one which was terminated by mutual consent. The new contract sum cannot therefore be loaded onto the eralier contract for the purpose of calculating variation. The amount was not fully utilized anyway as the contract commenced on 14/05/2015 close to end of the financial year and only Kshs. 20 million of the available funding was utilized.

Value for money for the expenditure of Kshs. 578,542,747

The following summary extracted from the remeasurement and Final Account submitted to the Ministry on 30th April 2014 by the State Department for Public Works indicates there was value for money:

Totals as per Bill of Quantities (Kshs.)	**Total Remeasurement of work done – Final Account (Kshs.)**	**Amount Paid Todate (Kshs.)**	**Amount now due for payment (Kshs.)**
408,033,463.80	578,371,743.97	501,574,915.25	76,796,828.72

The financial appriasal report is attached

In addition, all payment certificates for the project originated from the State Department for Public Works and have justifications to show value for money.

However, the Ministry is of the view that technical management of the project could have been done in a better manner and has continued to engage the National Treasury and the State Department for Public Works to translate the project to service delivery for Kenyans.

The project is complete awaiting furnishing and operationalization.

Recall of performance bond

The performance bond of the initial contractor could not be recalled and discharged against the uncompleted works because termination of the project was by mutual consent as recommended by the Attorney General**.** Recall of performance bond becomes applicable if the Ministry cancels the contract for breach on the part of the contractor.

Committee Observations and Findings

(i) The Committee noted that the submission of the Accounting Officer that all payment certificates for the project originated from the State Department for Public Works and contained justifications to show value for money did not address the matter raised as no project progress reports have been availed for audit review and Consequently, it could not be ascertained whether the Government obtained value for money for the expenditure of Kshs.578,542,747.00.

(ii) The Committee further noted that the County Government of Nyeri has decined to take over and run the facility, citing insufficient capacity to do so.

(iii)The Committee marked the matter as unresolved.

Committee Recommendations

Within three months upon adoption of this report, the National Government should take over and manage the facility as one of the referral hospitals as envisaged under section 23 of the Fourth Scheduleof the Constitution.

237. Long Outstanding County Debts

As previously reported, during 2013-2014 financial year, the Ministry paid, on behalf of county government, salaries totalling Kshs.19,208,279,767 which were to be recovered in the same financial year. Documents and information available indicate that the ministry only recovered Kshs.14,837,973,349 during 2013-2014 financial year leaving a balance of Kshs.4,370,306,417 which has remained outstanding to date. The Ministry has not explained why the amount has remained outstanding.

Submission by Accounting Officer

The accounting officer stated that it was true that the Ministry paid Ksh.19,208,279,767 on behalf of county government salaries which were meant to be recovered the same financial year 2013/14.

During the financial year 2013/14, the Ministry managed to recover Ksh.14,837,973,349 leaving a balance of Ksh.4,370,306,417 which has remained outstanding as accounts receivables in the annexure to the financial reports for the financial year 2015/16.

We wish to report that the Ministry is in liaison with the National Treasury with a view of recovering the Ksh.4,370,306,417 outstanding not surrendered by Counties.

Committee Observations and Findings

(i) The explanation by the Accounting Officer that the Ministry is in liaison with the National Treasury with a view of recovering the Ksh.4,370,306,417 outstanding not surrendered by Counties was reasonable.
(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Within three months of the adoption of this report, the Accounting Officer should liaise with the National Treasury with a view of recovering the Ksh.4,370,306,417 outstanding pursuant to the provisions of sections 168 (2)(l) of the Public Finance Management Act, 2012.

238. Un Reconciled Disbursements

A review of ministerial disbursements included under current and capital transfers to National Government entities totaling Kshs.22,709,190,053 in note 7 to the financial statements and actual receipts at the parastatals reflect a net variance of Kshs.70,389,582 between the two sets of records that has not been supported/reconciled as detailed below:

Institution	Account	Corporation Kshs	Ministry Kshs	Variance Kshs
Kenya Medical Training College	Combined	2,841,947,220	2,556,903,793	285,043,427
Moi Teaching & Referral Hospital	Recurrent	4,120,544,918	4,368,676,767	(248,131,849)
Kenya Medical & Supply Agency	Recurrent	363,729,432	334,530,592	29,198,840
National Aids Control Council	Recurrent	409,500,000	546,000,000	(136,500,000)
Total		**7,735,721,570**	**7,806,111,152**	**(70,389,582)**

Submission by Accounting Officer

ENTITY	VOTE	VARIANCE	DISBURSEMENT
KMTC	RECURRENT	**285,043,427**	KMTC recognized Accrued CBA grant of Ksh.250M as a receivable. The other balance Khs.35,043,427 is variance as a result of cut off in reporting (Ksh. 149,035,505.25 for June 2014/15 was paid by Ministry in July 2015/16 and Ksh 184,078,935.30 for June 2016(2015/2016) was received by KMTC in July 2016)

MTRH	RECURRENT	**(248,131,849)**	Inter entity confirmation from MTRH indicates Ksh.4,066,837,425.80 received in GOK grants against Ksh.4,368,676,767 disbursed by MOH. The variance of Ksh.301,839,343.60 refers to accrued grants for June 2015(2014/15) captured as paid by MOH in July 2015(2015/16)
KEMSA	RECURRENT	**29,198,839.70)**	Grant disbursed for June 2015 in FY 2014/15 and received and accounted for by KEMSA in July 2015 as part of grant receipt for FY 2015/16.
NACC	RECURRENT	**(136,500,000.00)**	payments paid by the Ministry in 2015/2016 Financial year but not accounted for by NACC in June 2014/2015 as a receivable.

Consequently, it has not been possible to confirm the accuracy of the current and capital disbursements to the above stated Government agencies included in note 7 to the financial statements.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining a variance of Kshs.70,389,582 arising from ministerial disbursements included under current and capital transfers to National Government entities totaling Kshs.22,709,190,053 in note 7 to the financial statements and actual receipts at the parastatals was compelling and should have been availed for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Within three months of the adoption of this report, the Accounting Officer should complete the pending reconciliations and furnish the National Assembly with evidence to that effect.

239. Rental of Produced Assets – Medical Equipment Services

The statement of receipts and payments for the year ended 30 June, 2016 reflects use of goods and services figure of Kshs.9,446,922,471. Included in this balance is expenditure amounting to Kshs.4,568,544,208 on medical equipment whose procurement, contract, progress report documents and the Attorney-General legal opinion on the contracts were not availed for audit review.

Consequently, the propriety of the expenditure of Kshs.4,568,544,208 on medical equipment included in note 6 to the financial statements could not be confirmed.

Submission by Accounting Officer

The accounting officer stated that it was true that the Ministry paid Ksh.4,568,544,208 under Medical Equipment Services, it is further true the expenditure is part of the total expenditure of Ksh.42,582,776,899.

The Medical Equipment Services project is a seven (7) year leasing contract project that was awarded to five firms to lease specialized medical equipment to 98 hospitals in all the 47 Counties. The original procurement contracts, progress reports and Attorney Generals' legal opinion are with EACC pending finalization of the investigation.

However, the Auditors were provided with copies of the contracts for audit review.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer that the original procurement contracts, progress reports and Attorney Generals' legal opinion are with EACC pending finalization of the investigation was compelling.**
- **(ii) The Committee marked the matter as unresolved.**

Committee Recommendations

Within three months upon adoption of this report, the EACC should conclude the on-going investigations, if any, and commense prosecution of all individuals found culpable.

240. Failure to Submit Fund Accounts

The financial statements in respect of Health Services Fund and Medical Services Fund have not been submitted for annual audit contrary to the requirements of the Public Audit Act, 2015. No reason has been provided for failure to comply with this requirement.

Submission by Accounting Officer

The accounting officer stated that it was true that the Ministry held in its portfolio Health Services Fund and Medical Service Fund. It is further true that the Ministry did not submit financial statements for the above-mentioned funds held at the Central Bank at the close of the financial year 2015/16.

The Medical service fund is a precursor of KEMSA whereas Health Care Service Fund was used to disburse funds to health facilities and dispensaries before devolution user fee forgone.

We wish to state that the funds were being disbursed centrally from the Ministry of Health, but accounting was being done by the then individual Districts. Currently, we are in the process of engaging the National Treasury so as to assist as to obtain records from the former Districts to enable us prepare the financial statements for presentation to the Auditor General for audit purpose.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer that the Ministry has engaged the National Treasury so as to assist as to obtain records from the former Districts to enable the Ministry to prepare the financial statements for presentation to the Auditor General for audit review was persuasive.**
- **(ii) The Committee marked the matter as unresolved.**

Committee Recommendations

Within six months of the adoption of this report, the Accounting Officer should submit the financial statements in respect of Health Services Fund and Medical Services Fund have not been submitted for annual audit pursuant to the requirements of the Public Audit Act, 2015.

241. Pending Bills

Records maintained by the Ministry of Health indicate that bills totaling Kshs.2,478,438,287 were not settled during the year 2015/2016 but were instead carried forward to 2016/2017. Had the bills been paid and the expenditure charged to the account for 2015/2016, the statement of receipts and payments for the year would have reflected an increased deficit of Kshs.2,508,798,590 instead of Kshs.30,360,303 in the statement of receipts and payments.

Submission by Accounting Officer

The accounting officer stated that it was true that that the Ministry reported Pending bills amounting to Ksh.2,478,438,287 for financial year 2015/16. It is also true that the Ministry reported a deficit of Ksh. 30,360,303 in the financial year under review.

However, the total budget for the Ministry in the financial year 2015/16 amounted to Ksh.60,673,967,024, comprising of Development Vote –Ksh.31,479,454,797 and Recurrent Vote-Ksh.29,194,512,227.

The Ministry did not receive the full exchequer for the Ministry's' Recurrent and Development vote, the Appropriation-In Aid both Donor and recurrent thus leading to the pending bills. Had the Ministry's budget funded in full, the Ministry would have realized a surplus of Ksh.18,929,490,124.

Committee Observations and Findings

(i) **The submission by the Accounting Officer that the Ministry did not receive the full exchequer for the Ministry's' Recurrent and Development vote, the Appropriation-In Aid both Donor and recurrent thus leading to the pending bill and had the Ministry's budget been funded in full, the Ministry would have realized a surplus of Ksh.18,929,490,124 was compelling.**

(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer should ensure that pending bills in any financial year are avoided at all cost. But where pending bills are available they should form a first charge in the subsequent year's budget to avoid impeding smooth implementation of the subsequent budget.

Other Matter

242. Budgetary Control and Performance

242.1 Budget Absorption

The Ministry of Health had an approved total budget of Kshs.60,673,967,024 voted for the financial year 2015/2016 comprising of Kshs.29,194,512,227 for recurrent vote and Kshs.31,479,454,797 for development vote with an overall budget absorption of 69% as summarized below:

Item	**Budgeted Allocation 2015/2016 (Kshs)**	**Actual 2015/2016 (Kshs)**	**Under Absorption (Kshs)**	**Absorption rate in %**
Recurrent	29,194,512,227	25,139,555,873	4,054,956,354	86
Development	31,479,454,797	16,604,308,161	14,875,146,636	53
Total	**60,673,967,024**	**41,743,864,034**	**18,930,102,990**	**69**

Although the recurrent budget absorption and utilization rate was above three quarters i.e. 86%, the budget utilization rate for the Development budget was just about half i.e. 53%. The implication of this is that almost half of the budgeted development programmes may not have been implemented. In this regard, there is need for the Accounting Officer to re-focus the budgetary process with a view to focusing on priority areas in health infrastructure to boost the health services for the citizens of Kenya.

Submission by Accounting Officer

The accounting officer stated that it wastrue that the Ministry of Health had an approved total budget of Kshs.60,673,967,024 voted for the financial year 2015/2016 comprising of Kshs.29,194,512,227 for the Recurrent vote and Kshs. 31,479,454,797 for the Development vote. This was an increase of Kshs.6,566,917,461 **(12%)** compared to the financial year 2014/2015.

The budget absorption was as follows:

Item	**Budgeted Allocation 2015/16 (**Kshs)	**Actual 2015/16 (Kshs)**	**Under Absorption (Kshs)**	**Absorption rate %**
Recurrent	29,194,512,227	25,139,555,873	4,054,956,354	86
Development	31,479,454,797	16,604,308,161	14,875,146,636	53
Total	**54,107,049,563**	**39,281,413,214**	**14,825,636,349**	**69**

Committee Observations and Findings

The Committee noted the explanation provided by the Accounting Offcer.

Committee Recommendations

There is need for the Accounting Officer to re-focus the budgetary process with a view to focusing on priority areas in health infrastructure to boost the health services for the citizens

of Kenya and ensure prudent, effective, efficient, economical and transparent use of public resources pursuant to the provisions of section 68(1)(b) of the PFM Act, 2012.

242.2 Recurrent Vote

Out of the recurrent budget of Kshs.29,194,512,227, below is the budget performance analysis:

Item	Budget (Kshs)	Actual (Kshs)	Under Absorption (Kshs)	% Under Expenditure
Compensation of Employees	5,831,881,546	5,598,537,767	233,343,779	4
Use of goods and services	1,771,928,044	1,694,167,589	77,760,455	4
Transfers to Other Government Units	20,560,417,717	16,850,465,375	3,709,952,342	18
Other grants and transfers	617,882,366	600,488,391	17,393,975	3
Social Security Benefits	100,000,000	100,000,000	-	0
Acquisition of Assets	312,402,554	295,896,752	16,505,802	5
Total	**29,194,512,227**	**25,139,555,874**	**4,054,956,353**	**14**

From the above analysis, it is evident that the Ministry under-spent on some budget lines with transfer to other government units leading with the highest amount of unutilized allocation of Kshs.3,709,952,342. This is an indication of idle funds not put to proper use for service delivery. The management may have over budgeted on recurrent expenditure and therefore needs more realistic budget in future.

Submission by Accounting Officer

1.2 Recurrent Vote

Item	Budgeted (Kshs)	Actual (Ksh).	Under Absorption (Kshs)	%Under Expenditure
Compensation of Employees	5,831,881,546	5,598,537,767	233,343,779	4
Use of goods and	1,771,928,044	1,694,167,589	77,760,455	4

Services				
Transfer to other government Entities	20,560,414,717	16,850,465,375	3,709,952,342	18
Other grant and transfers	617,882,366	600,488,391	17,393,975	3
Social Security Benefits	100,000,000	100,000,000	-	0
Acquisition of Assets	312,402,554	295,896,752	16,505,802	5
Total	**54,107,049,563**	**39,281,413,214**	**4,054,956,353**	**14**

As evident above, it is true that the Ministry under spent on some budget items; leading in the analysis is transfer to other government entities leading with unutilized allocation of 3,709,952,342. This was due to non-reporting of collection of appropriation in Aid by the semi-autonomous Agencies in the Ministry.

Committee Observations and Findings

(i) **The submission by the Accounting Officer that there was non-reporting of collection of appropriation in Aid by the semi-autonomous Agencies in the Ministry leading to was leading to it having the highest amount of unutilized allocation of Kshs.3,709,952,342 was not compelling as it did not fully address the preposition that idle funds were not put to proper use for service delivery and that the management may have over budgeted on recurrent expenditure and therefore needs more realistic budget in future.**

(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

The Accounting Officer should always endeavor to present a realistic budget on recurrent expenditure to ensure prudent, effective, efficient, economical and transparent use of public resources pursuant to the provisions of section 68(1)(b) of the PFM Act, 2012.

242.3 Development Vote

Out of the development budget of Kshs.31,479,454,797 below is the budget performance analysis:

Item	Budget (Kshs)	Actual (Kshs)	Under/(Over) Absorption (Kshs)	% Under Expenditure
Compensation of Employees	405,014,207	175,948,456	229,065,751	57

Use of goods and services	17,644,378,981	7,752,754,882	9,891,624,099	56
Transfers to Other Government Units	11,624,590,141	7,382,909,446	4,241,680,695	36
Other grants and transfers	-	838,300,000	(838,300,000)	0
Acquisition of Assets	1,805,471,468	1,293,308,242	509,163,226	28
Total	**31,479,454,797**	**17,443,221,026**	**14,036,233,771**	**45**

From the above analysis, it is evident that the Ministry under-spent on most budget lines except other grants and transfers with compensation of employees leading with the highest amount of unutilized allocation of Kshs.9,891,624,099. The implication of this is that almost half of the budgeted development programmes may not have been implemented. The management may have also over budgeted on development programmes and therefore need more realistic budget in future.

Submission by Accounting Officer

1.2.1 Development Vote

Item	Budgeted (Kshs)	Actual (Ksh).	Under Absorption (Kshs)	%Under Expenditure
Compensation of Employees	405,014,207	175,948,456	229,065,751	57
Use of goods and Services	17,644,378,981	7,752,754,882	77,760,455	56
Transfer to other government Entities	11,624,590,141	7,382,909,446	3,709,952,342	36
Other grant and transfers	-	838,300,000	(838,300,000)	0
Acquisition of Assets	1,805,471,468	1,293,308,242	509,163,226	28
Total	**31,479,454,797**	**17,443,221,026**	**14,036,233,771**	**45**

As evident above, it is true that the Ministry under spent on some budget items; leading in the analysis is transfer to other government entities. A significant portion of the development budget is donor support and it is mainly captured as Appropriations-In-Aid (AIA). The development partners make direct payments for the activities that are funded by them and they are required to submit to the Ministry the expenditure returns to enable us capture the same in our Books of Account. In most cases, the Development Partners do not submit the expenditure returns thus resulting in under-collection of AIA and under-expenditures.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer a significant portion of the development budget is donor support and it is mainly captured as Appropriations-In-Aid (AIA), the development partners make direct payments for the activities that are funded by them and in most cases, the Development Partners do not submit the expenditure returns thus resulting in under-collection of AIA and under-expenditures was compelling However, there was no alternative evidence or analysis (for instance, implementation reports) to negate the proposition that at least** half of the budgeted development programmes allocated approximately Kshs.9,891,624,099may have been implemented.
- **(ii) The Committee marked the matter as unresolved.**

Committee Recommendations

- **(i) Accounting Officers should at all times ensure that monies received by way of grants and donations are managed in accordance with the provisions of regulation 78 of the Public Finance Management (National Government) Regulations, 2015.**

- (ii) **Accounting Officers should at all times ensure that they prepare estimates of expenditure and revenue of the entity in conformity with the strategic plan in accordance with the provisions of section 68(2) of the Public Finance Management Act, 2012.**

243. Ethnicity Composition of Staff

The Ministry did not provide the summary of ethnic composition of its staff. It was therefore not possible to confirm whether the Ministry had complied with Section 7 (1) and (2) of the National Cohesion and Integration Act, 2008 which requires all public establishments to seek to represent the diversity of the people of Kenya in employment of staff and that no public establishment shall have more than one third of its establishment from the same ethnic community.

Submission by Accounting Officer

1. Ethnicity Composition of staff

The Accounting Officer stated that it was true that the Ministry did not provide summary of staff on the basis of ethnicity as provided for by the National Cohesion and Integration Act. The summary has been made available for audit review.

Committee Observations and Findings

- **(i) The Accounting Officer did not provide in good time a summary of staff on the basis of ethnicity as provided for by the National Cohesion and Integration Act for audit review.**
- **(ii) The Committee noted that the information was eventually provided.**
- **(iii)The matter was marked as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

244. Special Audit

The Public Accounts Committee vide letter of ref: NA/DCS/PAC/2016/261 dated 22 November, 2016 requested the Auditor-General to submit a special audit report on the accounts of the Ministry of Health for the financial year 2015/2016 following reports of alleged financial impropriety affecting various programs at the Ministry. As at the time of this report, the special audit was in progress and the report had not been finalized. Consequently and until the special audit report is issued, it has not been possible to comment on the propriety of expenditure totaling Kshs.42,582,776,899 in these financial statements.

Submission by Accounting Officer

The accounting officer stated that it was true that the Public Accounts Committee requested the Auditor General to undertake a Special Audit on the Accounts of the Ministry of Health for the financial year 2015/16 following alleged reports of financial impropriety on the programmes under its mandate.

We wish to report that the Ministry gave all the relevant support to the team which was sent to undertake the exercise; and the Ministry shall appreciate to receive a copy of the Special Audit Report from the Auditor General and commits to fully comply with the recommendations thereof.

As part of its constitutional mandate that requires the Ministry to prudently utilize the resources allocated to it, the Ministry is continuously reviewing and strengthening its internal control mechanisms to ensure compliance to Public Finance Management Act 2012 and Regulations 2015.

Committee Observations and Findings

(i) The Auditor-General eventually submitted special audit report on the accounts of the Ministry of Health for the financial year 2015/2016 following reports of alleged financial impropriety affecting various programs at the Ministrytotaling an approximate expenditure of Kshs.42,582,776,899.

(ii) The Committee marked the matter as unresolved pending examination of the special audit report by the National Assembly.

Committee Recommendations

Within six months upon adoption of this report and subsequent examination of the said special audit report by the Committee, the Ministry and other relevant state agencies should implement the recommendations thereof.

DONOR FUNDED PROJECTS

GLOBAL FUND - EXPANDING HIV PREVENTION, CARE AND TREATMENT SERVICES TO REACH UNIVERSAL ACCESS (80% COVERAGE) PROGRAM GRANT NO.KEN-H-MOF/KEN-H-TNT NO. 853

Basis for Qualified Opinion

245. Non Compliance with Imprest Regulations

The statement of assets and liabilities as at 30 June 2016 reflects outstanding imprests and advances totaling Kshs.20,686,660 and which ought to have been accounted for on or before 30 June 2016. The imprest register in respect of these balances was not availed for audit review. In addition, it was observed that various officers were issued with new imprests before accounting for the previous ones contrary to Government Financial Regulations and Procedures governing the issue of imprest. In the circumstances, it has not been possible to confirm the validity and propriety of the imprest and advances balance of Kshs.20,686,660 included in the statement of financial assets and liabilities.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of Assets and Liabilities as at 30th June 2016, reflects outstanding imprests and advances totaling Kshs 20,686,660 and it is further true that the Imprest Schedule was not availed for audit review. The Imprests outstanding have been fully surrendered and posted in Cash Book and are now available for audit review

Committee Observations and Findings

(i) **The submission by the Accounting Officer that the outstanding imprests have been fully surrendered and posted in Cash Book and are now available for audit review was compelling.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

EAST AFRICA PUBLIC HEALTH LABORATORY NETWORKING PROJECT CREDIT NO. 4732

Basis for Qualified Opinion

Included in the statement of financial assets and liabilities is a bank balance amounting to Kshs.211,927,846. The bank reconciliation statement in respect of this balance includes an amount of Kshs.80,923,440 which was fraudulently transferred by the NIC Bank vide cheque no.1102 dated 25 April 2013. The matter has been under investigation since the year 2013 and no information on the progress report has been availed for audit review.

Submission by Accounting Officer

The Accounting Officer stated that it was true that included in the statement of Assets and Liabilities include bank balance amounting to Ksh.211,927,846.00. The bank reconciliation statement in respect of this balance include an amount of Ksh.80,926,440.00 which was fraudently transferred by NIC Bank vide cheque no.1102 dated April, 2013.

The matter has been under investigation since the year 2013 and no information on the progress has been availed for audit review.

The Directorate of Criminal Investigation (DCI) has been handling the case against the 3 accused persons. The case is pending before the court but has been delayed due to frequent adjournments requested by the defense lawyers, changing of lawyers and non- unavailability of trial magistrate.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer that the Directorate of Criminal Investigation (DCI) has been handling the case against the 3 accused persons and the case is pending before the court but has been delayed due to frequent adjournments requested by the defense lawyers, changing of lawyers and non- unavailability of trial magistrate was persuasive. Nevertheless, the Committee notes that no information on the progress report has been availed for audit review.**
- **(ii) The Committee marked the matter as unresolved.**

Committee Recommendations

The Ministry should liaise with the Directorate of Criminal Investigation with a view to bring the case to a conclusion.

KENYA HEALTH SECTOR SUPPORT PROGRAM DANIDA NON-POOL NO.104.KENYA.810.300 (GRANT)

Basis for Qualified Opinion

246. Cash Book and Bank Balances

Included in the statement of financial assets and liabilities as at 30 June, 2016 is cash and bank balance amounting to Kshs.118,844,886. This balance excludes payment in cash book and not in the bank statement of Kshs.155,327. Further, the cash and bank balance reflects Kshs.118,844,886 while the cash book balance is Kshs.118,892,286 resulting in unexplained variance of Kshs.47,430. No explanation has been provided for the variation in the two figures. Consequently, the validity and accuracy of the cash and bank balance of Kshs.118,844,886 as at 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the reconciliation of the two figures have been done and now the cashbook balance and bank balance have agreed. The cashbook extract and bank reconciliation statement have been availed for audit verification.

Committee Observations and Findings

(i) **The submission by the Accounting Officer that the reconciliation of the cashbook balance and bank balance had been done and that the cashbook extract and bank reconciliation statement have since been availed for audit verification was satisfactory.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they providetheAuditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

247. Impresats and Advances

The statement of financial assets and liabilities as at 30 June, 2016 reflects imprest and advances balance of Kshs.4,282,100 while the supporting schedule availed for audit review reflects Kshs.5,206,400 resulting in unexplained variance of Kshs.924,300. Further, the imprests and advances balance of Kshs.4,282,100 includes long outstanding imprests of Kshs.2,893,000. No explanation has been provided for failure to recover the long outstanding imprest of Kshs.2,893,000. Consequently, the validity and accuracy of the imprest and advances balance of Kshs.4,282,100 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the unexplained variance of Ksh. 924,300 was out of an imprest issued of Ksh. 1,137,400 which was surrendered vide Payment Voucher No 875 and the unutilized cash amounting to Ksh. 213,100 returned and banked as per attached bank statement dated 11th August 2016.

However, the long outstanding imprest of Ksh. 2,893,000 was fully accounted for in 2016/17 financial year.

Committee Observations and Findings

(i) **The submission by the Accounting Officer that the unexplained variance of Ksh. 924,300 was out of an imprest issued of Ksh. 1,137,400 which was surrendered vide Payment Voucher No 875 and the unutilized cash amounting to Ksh. 213,100 returned and banked as per the bank statement dated 11th August 2016 was persuasive.**
(ii) **The Committee further noted that the long outstanding imprest was fully accounted for in 2016/2017.**
(iii) **The Committee marked the matter as resolved.**

Committee Recommendations

(i) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
(ii) **Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012**

248. Purchase of Goods and Services

Included under the purchase of goods and services expense of Kshs.61,062,083 in the statement of receipts and payments for the year ended 30 June, 2016 is Kshs.10,061,596 paid to various suppliers while information available reflects invoiced amount as Kshs.9,450,600 resulting in an overpayment of Kshs.610,996. The excess payment has not been explained or reconciled. In addition, the purchase of goods and services balance of Kshs.61,062,084 includes ineligible expenditure of Kshs.2,961,600 incurred on an unapproved work plan and budget. Consequently, the propriety of Kshs.3,572,596 incurred on the purchase of goods and services could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that included in the purchase of goods and services is Ksh.10, 061,596 paid to various suppliers.

- Its further true that the invoiced amount was Ksh. 9,450,600 resulting into an overpayment of Ksh. 610,996. This arose from an overpayment of Ksh. 176,400 made to Manzoni Lodge who later acknowledged the overpayment, and the same was subsequently deducted from a payment due them.
- Ksh 369,596 was an overpayment to Sarova White sands due to an unanticipated increase in number of participants.
- Soloh Worldwide Inter-Enterprises Ltd was awarded a tender to deliver 1000 books for a Kenya demographic and health key indicator survey that was to be undertaken by Kenya National Bureau of Statistics (KNBS). An advance delivery of 100 books was made to KNBS, Nyayo House office vide S11 whose invoice amounted to Ksh. 65,000. The balance of 900 books was delivered to the project office and received vide an S13, thus confirming the validity of payment of Kshs 650,000 to the merchant.
- On the issue of ineligible expenditure of Kshs 2,961,600, the activity was undertaken on the basis of an approved work plan and budget, and the officers who participated in the activity were paid the allowances after completing the exercise through direct money transfer.

Committee Observations and Findings

(i) **The submission by the Accounting Officer explaining excess payment of Kshs. 610,996 arose from an overpayment of Ksh. 176,400 made to Manzoni Lodge who later acknowledged the overpayment, and the same was subsequently deducted from a payment due them was compelling.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

(i) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**
(ii) **Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012**

KENYA HEALTH SECTOR SUPPORT (EMMS COMPONENT 2) PROJECT (IDA NO. 4771-KE AND 5034-KE)

Basis for Qualified Opinion

249. Diversion of Funds

Included in the total payments figure of Kshs.1,504,030,691 in the statement of receipts and payments for the year ended 30 June, 2016 is transfers to other government entities amounting to Kshs.508,245,204. This relates to funds that the project transferred to the Ministry of Health – HSSF Project during the year and which were not provided for under the Project's activities. No justification was availed for the diversion of funds and yet the Project had pending obligations.

Submission by Accounting Officer

The accounting officer stated that it was true that 508,245,204 was transferred from KHSSP (EMMS II Project) to Health Sector Services Fund (HSSF) Project and disbursed to the Counties to be used by the health facilities for improvement of services during the year under review.

The transfer was an inter entity borrowing, which was subsequently refunded back to the Project Account vide EFT.NO FT170660SVDK of 7th March,2017.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer thatKshs. 508,245,204 was transferred from KHSSP (EMMS II Project) to Health Sector Services Fund (HSSF) Project and disbursed to the Counties to be used by the health facilities for improvement of services during the year under review which was subsequently refunded back to the Project Account vide EFT.NO FT170660SVDK of 7th March, 2017 was compelling. However, the Committee did not see any guidelines for inter entity borrowing from the Ministry.**
- **(ii) The Committee marked the matter as unresolved.**

Committee Recommendations

- **(i) Within three months of the adoption of this report, the Accounting Officer in liaison with the National Treasury, should furnish the National Assembly with guidelines, if any, that guide inter entity borrowing of development funds.**

250. Unsupported Expenditure

During the year under review, an expenditure of Kshs.1,363,425 was incurred in the settlement of medical bills that has not been explained or supported. In the circumstances, the propriety of the expenditure totalling Kshs.1,363,425 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that an expenditure amounting to Ksh. 1,363,425 was incurred in settlement of medical bills, that, the expenditure was erroneously charged to EMMS-KEMSA Account instead of GOK Counterpart Fund Account. The expenditure has since been reversed and correctly charged to the GOK counterpart fund Account and the amount of Ksh.

1,363,425 has since been recovered vide an EFT payment Ref.no.FT17296MKY7V dated 23rd October,2017 and the books available for audit review

Committee Observations and Findings

(i) **The submission by the Accounting Officer that the expenditure was erroneously charged to EMMS-KEMSA Account instead of GOK Counterpart Fund Account and that the expenditure has since been reversed and correctly charged to the GOK counterpart Fund Account and the amount of Ksh. 1,363,425 has since been recovered vide an EFT payment was persuasive and that Committee notes that the explanation should have been availed during the period of audit review pursuant to the provisions of section 68(2)(l) of the PFM Act, 2012.**

(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

251. Pending Bills

Records availed for audit review indicate that as at the end of the year under review, the Project had pending bills amounting to Kshs.657,600,190 due to suppliers and which had not been settled. Had the pending bills been settled, the Project would have incurred a deficit of Kshs.1,301,877,084 thus resulting in an overdrawn cash balance to the tune of Kshs.1,260,320,335.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the pending bills due to suppliers for the year under review amounted to Ksh.657,600,190.00.The bills were presented at the end of the financial year and thus could not be processed and paid**.**The projects' life ends in 30th June 2018, and therefore the fund balances rolled over to the financial year 2016/2017.In addition to the Ksh. 508,424,404 refunded during the year 2016/2017, the project was further funded to the tune of Ksh. 1,338,245,204 and therefore met its project obligations duly.

Committee Observations and Findings

(i) **The submission by the Accounting Officer that thepending bills amounting to Kshs.657,600,190 due to suppliers and which had not been settled because the bills were presented at the end of the financial year and thus could not be processed and paid was compelling.**

(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

HEALTH SECTOR SUPPORT PROJECT –SWAP SECRETARIAT (IDA CR.NO.4771KE)

Basis for Qualified Opinion

252. Imprests and Advances

The cash and cash equivalents' balance of Kshs.128,874,522 as at 30 June 2016 includes outstanding imprests and advances of Kshs.6,496,278 out of which advances of Kshs.1,745,380 have been outstanding for a long period of time and which management has been unable to recover to date. This is contrary to the Government Financial Regulations and Procedures. Consequently, the validity and recoverability of the imprest and advances balance of Kshs.6,496,278 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the cash and cash equivalent balance of Kshs 128,874,522 as at 30th June 2016, included outstanding imprests and advances of Kshs. 1,745,380.00 which have been outstanding for a long period of time. This was an imprest issued to an officer vide Imprest Warrant No 2471131 dated 15th April 2016 of Kshs 1,847,800. The officer fell sick immediately after activity and could not surrender within the stipulated time. However, the officer surrendered the imprest vide Payment Voucher No 221 of Kshs 1,745,380 and the unspent balance of Kshs 102,420 was banked.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer that the imprest holder fell sick immediately after activity and could not surrender within the stipulated time, but, subsequently surrendered the imprest vide Payment Voucher No 221 of Kshs 1,745,380 was persuasive.**
- **(ii) The Committee marked the matter as unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

REPRODUCTIVE HEALTH FOR THE ENTIRE COUNTRY (UNFPA KEN 7R 11G)

Basis for Disclaimer of Opinion

253. Cash and Cash Equivalents

Included in the statement of financial assets and liabilities as at 30 June, 2016 is cash and cash equivalents' balance amounting to Kshs.177,287. This balance excludes payment in cashbook not in bank statement of Kshs.101,500. Further, the cash and cash equivalents' balance of Kshs.177,287 includes payments in the bank statement not in cashbook of Kshs.26,231 and whose supporting schedules were not availed for audit verification. In addition, the bank reconciliation statement also reflects cashbook balance of Kshs.102,018 while the cashbook reflects a balance of Kshs.177,287 resulting in unexplained and unreconciled variance of Kshs.75,269. Consequently, the accuracy of cash and cash equivalents' balance of Kshs.177,287 could not be confirmed.

Submission by Accounting Officer

The accounting officer stated that it was true that included in the Statement of Assets and Liabilities as at30 June,2016 was cash and cash equivalents balance amounting to Ksh. 177,287 which had not been reconciled. The bank reconciliation has been done and is now available for audit review.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer that the bank reconciliation has been done and is now available for audit review was compelling.**
- **(ii) The Committee notes that the explanation and supporting evidence should have been availed during the period of audit review pursuant to the provisions of section 68(2)(l) of the PFM Act, 2012.**
- **(iii)The Committee marked the matter as resolved.**

Committee Recommendations

Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

254. Unsupported Expenditure- Purchase of Goods and Services

Included in the statement of receipts and payments for the year ended 30 June, 2016 in respect of purchase of goods and services is an amount of Kshs.9,823,116. This figure includes an expenditure of Kshs.5,837,080 whose supporting payment vouchers, work tickets, work plans, approvals, circulars and regulations used were not availed for audit verification. Consequently, the propriety of Kshs.5,837,080 incurred on goods and services could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that included in the statement of receipts and payments for the year ended 30 June 2016 in respect of purchase of goods and services was an amount of Ksh. 9,823,116.

It was further true that included in the aforementioned figure was an expenditure of Ksh. 5,837,080 whose documents were no availed for audit review. The payment vouchers have since been availed for audit review.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer that the payment vouchers relating to expenditure amounting to Ksh. 5,837,080 have since been availed for audit review was persuasive.**
- **(ii) The Committee, however, notes that the supporting payment vouchers, work tickets, work plans, approvals, circulars and regulations used were not availed on time for audit verification pursuant to the provisions of section 68(2)(l) of the PFM Act, 2012.**
- **(iii)The Committee marked the matter as resolved.**

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.**
(ii) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

255. Unsupported Income

The statement of receipts and payments for the year ended 30 June 2016 reflects total receipts figure of Kshs.10,000,403. Supporting schedules / documents for these receipts were not availed for audit verification. Consequently, the accuracy of receipts figure of Kshs.10,000,403 could not be confirmed.

Submission by Accounting Officer

The accounting officer stated that it was true that included in the statement of receipts and payments was a receipt figure of Ksh. 10,000,403.

The unsupported income of Ksh. 10,000,403 comprised of audited balance brought forward from 2014/215 financial year of Ksh. 5,954,315.40, Receipts from Donor of Ksh 3,449,944, Stale cheques reversed in cashbook of Ksh. 576,144 and unsurrendered imprests of Ksh. 20,000. The support schedules have since been provided for audit review.

Committee Observations and Findings

The supporting documents have since been availed for verification.

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.**
(ii) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

256. Inaccuracies in the Financial Statements

The statement of financial assets and liabilities as at 30 June, 2016 reflects total financial assets of Kshs.177,287.40 while the net financial position indicates Kshs.6,135,105 resulting in an unreconciled difference of Kshs.5,957,818. No explanation has been provided for failing to reconcile the two figures. Further, the statement of cash flows reflects miscellaneous receipts of Kshs.4,042,586 while the receipts for operating income show Kshs.10,000,403 leading to an unexplained variance of Kshs.5,957,817.

In addition, the statement of comparative budget and actual amounts reflects final budget total payments balance of Kshs.9,823,116 while the actual on comparable basis, variance and percentage of variance reflects nil balances. However the actual payments amounted to Ksh.9,823,116 as per the statement of receipts and payments. Consequently, the accuracy, validity and completeness of these Project financial statements could not be determined.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of assets and liabilities as at 30 June 2016 reported an operating income of Ksh. 10,000,403 but the statement of cash flow reflects receipts of Ksh. 4,042,586.

The unexplained variance amounting to Ksh. 5,957,817.40 represents cash balance brought forward from previous financial year 2014-2015 and supported by the project cashbook balance carried forward to financial year 2015-2016. The cashbook is available for audit review.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer that the unexplained variance amounting to Ksh. 5,957,817.40 represents cash balance brought forward from previous financial year 2014-2015 and the cashbook has been availed for audit review was persuasive.**
- **(ii) However, no explanation was tabled for the variance of Ksh.9,823,116 resulting from the statement of the statement of comparative budget and actual amounts between pursuant to the provisions of section 68(2)(l) of the PFM Act, 2012**
- **(iii)The Committee marked the matter as unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

EAST AFRICA'S CENTRES OF EXCELLENCE FOR SKILLS AND TERTIARY EDUCATION IN BIOMEDICAL SCIENCES-PHASE 1 (CR. NO. 2100150031997)

Basis for Disclaimer of Opinion

257. Unsupported Cash and Cash Equivalents' Balance

Included in the statement of financial assets and liabilities as at 30 June 2016 is a bank balance of Kshs.6,236,169 which comprises of cash at hand. However, the project management did not provide cash books, bank reconciliations statements, certificates of end year bank balances and cash survey report for audit verification. Consequently, the validity and accuracy of the bank balance of Kshs.6,236,169 could not be determined.

Submission by Accounting Officer

The Accounting Officer stated that it was true that included in the statement of financial assets and liabilities as at 30th June,2016 is a bank balance of Ksh. 6,236,169 which comprised cash at hand.It is further true that the project did not provide for review cashbooks, bank reconciliation statements, certificates of end year bank and cash survey report.The Project at the time of inception did not have an independent project account; instead the exchequer and payments in respect of the project transactions were processed through the Ministry's Development account.The unspent balances were therefore part of the funds that were held in the Ministry's Development bank account as at 30th June,2016.The unspent balance of Ksh. 6,236,169 was later transferred from the Ministry's development bank account to the newly opened and operational project account.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer that the Project at the time of inception did not have an independent project account; instead the exchequer and payments in respect of the project transactions were processed through the Ministry's Development account. and were therefore part of the funds that were held in the Ministry's Development bank account as at 30th June,2016 was satisafactory.**
- **(ii) The Committee marked the matter as unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

258. Unsupported Expenditure

Included in the statement of receipts and payments for the year ended 30 June 2016 is payments for purchase of goods and services amounting to Kshs.16,225,731. This figure includes an amount of Kshs.515,200 whose supporting documents were not availed for audit review. In the circumstances, it has not been possible to confirm the propriety of the expenditure of Kshs.515,200 incurred on purchases of goods and services.

Submission by Accounting Officer

The Accounting Officer stated that it was true that out of Ksh 16,225,731 reflected in the statement of receipts and payments for the year ended 30 June 2016 included an amount of Ksh. 515,200 whose support documents were not provided.The aforementioned amount was an imprest issued to an officer which was later surrendered in the subsequent financial year 2016/2017.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer that the amount was an imprest issued to an officer which was later surrendered in the subsequent financial year 2016/2017 was satisfactory.**
- **(ii) The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

GAVI HEALTH SYSTEMS STRENGTHENING PROJECT

Basis for Disclaimer of Opinion

259. Deficit Brought Forward

As reported in 2013/2014 and 2014/2015 audit reports, the statement of receipts and payments for the year ended reflected a deficit of Kshs.2,604,446 while the cash book balance carried forward at the same time reflected cash at bank balance of Kshs.544,411. A review of the position in the financial years 2013/2014 showed that the deficit was cleared during that year. However, no documentary evidence has been availed to date to explain how the deficit of Kshs.2,604,446 was cleared. It was, therefore, not possible to confirm the validity of these balances in the financial statements for the year ended 30 June 2016.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of receipts and payments for the year ended 30th June, 2013 reflected a negative balance of Ksh. 2,604,445.60, while the cash book balance carried forward at the same time reflected cash at bank balance of Kshs. 544,410.65. The aforementioned deficit was cleared in the books of accounts through a journal entry to reverse an expenditure of Ksh 3,148,856 which was erroneously charged to GAVI instead of being charged to GOK component.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer that thedeficit was cleared in the books of accounts through a journal entry to reverse an expenditure of Ksh 3,148,856 which was erroneously charged to GAVI instead of being charged to GOK component was persuasive.**
- **(ii) The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

260. Bank Balances

As previously reported, the statement of assets and liabilities as at 30 June, 2016 reflects a bank balance of Kshs.644,993 which has remained constant since June 2014. However, bank confirmation certificate and bank reconciliation statement in support of the balance of Kshs.644,993 were not availed for audit review. Consequently, the validity and accuracy of the bank balance of Kshs.644,993 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of assets and liabilities as at June, 2013 reflected a bank balance of Ksh. 644,993. It is also true that during the review of the documents to support the financial statements for the year 2014/15, the bank reconciliation statement was not availed for audit verification.

However, we have provided for audit review the bank reconciliation statement to support the bank balance of Ksh. 644,993.

Committee Observations and Findings

(i) **The submission by the Accounting Officer that the bank reconciliation has been availed for audit review was compelling.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

261. Dormant Project

This project has been dormant since the year 2013. It is not clear why the project management has left the project open rather than close it. Further, the financing agreement for this project has not been availed for audit review thus making it difficult to determine whether the project could have come to an end.

Submission by Accounting Officer

The Accounting Officer stated that the GAVI HSS project was a 5-year project which aimed at Strengthening Community Health Systems so as to improve the immunization coverage for children aged less than 5 years in 6 provinces of Kenya namely;

1. Rift Valley Province
2. North Eastern Province
3. Coast Province
4. Eastern Province
5. Nyanza Province
6. Western Province

Nairobi and Central Provinces were not considered because their immunization coverage was high. The project was implemented from 2007/2008 financial year to 2011/2012 financial year. The project came to an end in April 2012 but the bank account remained dormant until June 2017 when it was activated and closed.

Committee Observations and Findings

(i) **The submission by the Accounting Officer that theproject was implemented from 2007/2008 financial year to 2011/2012 financial year and the project came to an end in April 2012 was compelling**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

GLOBAL FUND TUBERCULOSIS GRANT PROGRAMME (GRANT NO. KEN-S11G12-T AND KEN-T-TNT-854)

Basis for Qualified Opinion

262. Outstanding Imprest Balance

The statement of financial assets and liabilities as at 30 June 2016 reflects outstanding imprests and advances totaling Kshs.54,142,900 which ought to have been accounted for on or before 30 June 2016. Out of Kshs.54,142,900, Kshs.11,733,434 had not been accounted for as at the time of the audit. Further, included in the unaccounted for, balance of Kshs.11,733,434, is an amount of Kshs.717,974 which was advanced to provinces dating back from the year 2011 but has not been recovered to date. Consequently, it has not been possible to confirm the validity and recoverability as well as the propriety of the imprest and advances balance of Kshs.54,142,900 included in the statement of financial assets and liabilities.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of financial assets and liabilities as at 30 June 2016 reflects outstanding imprests and advances totalling Kshs. 54,142,900. Out of this balance Kshs. 11,733,434 was unaccounted for as at 30th June 2016. Similarly, from the outstanding amount of Kshs 11,733,434, is an amount of Kshs. 717,973.75 which was advanced to Provinces dating back from the year 2011 but has not been recovered to date. The project has made recovery efforts and the outstanding imprest amount has reduced significantly to Kshs 3,187,146 as at 30th May,2018.

Committee Observations and Findings

The submission by the Accounting Officer that the project has made recovery efforts and the outstanding imprest amount has reduced significantly to Kshs 3,187,146 as at 30th May,2018 was compelling.

Committee Recommendations

Within three months of the adoption of this report, the Accounting Officer should take action to recover the full amount from the salaries of the defaulting officers with an interest at the prevailing Central Bank Rate pursuant to the provisions of regulation 93(2)(6) of the Public Finance Management (National Government) Regulations, 2015.

263. Unsupported Expendi

Included in the purchase of goods and services figure of Kshs.422,449,090 is expenditure amount totaling Kshs.11,527,100 which had no supporting documentation. Consequently, it was not possible to confirm the propriety for the expenditure of Kshs.11,527,100 included in the statement of receipts and payments under purchase of goods and services

Submission by Accounting Officer

The Accounting Officer stated that itwas true that included in the purchase of goods and services figure of Kshs. 422,449,090 is expenditure amount totaling to Kshs. 11,527,100 and which had no supporting documentation.

The supporting documents have been availed for audit review as indicated in the table below:

	Date	Details	V.No.	Amount (Kshs)	Audit Observation	Action Taken

1.	19/10/2015	PS MOH Kirinyaga	00379	1,610,100	Dates, activity, venue not indicated on schedules, not signed by coordinator,	The documents to fully support the payment of Ksh.1,610,100 are provided for audit review
2.	9/05/2016	Henry Kandie	00749	5,492,000	Voucher Narrates ICD10 for Garissa, Machakos & Bungoma while the memo is for Nairobi, Mombasa & Nyeri. Recipients not known.	The letter to the COG is attached to support change in venue**.**
3.	9/05/2016	Samuel Kilimo	00904	2,940,000	Coordinator did not sign, one person signed for several others.	The two officers confirmed receiving Kshs. 36,000 each.
4.	28/08/2015	Henry Kandie	00291	1,485,000	Voucher not availed	The voucher has been retrieved and availed for audit
	Total			**11,527,100**		

Committee Observations and Findings

(i) **The explanation by the Accounting Officer that thesupporting documentation to confirm the propriety for the expenditure of Kshs.11,527,100 included in the statement of receipts and payments under purchase of goods and services was satisfactory.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

264. Exchequer Releases

During the year under review, the Exchequer issued notifications to the project amounting to Kshs.393,081,164 while the actual amount received by the project during the financial year and recorded in the statement of receipts and payments was Kshs.392,731,215 resulting in a difference of Kshs.349,949. No explanation or reconciliation has been provided on the difference of Kshs.349,949.

Submission by Accounting Officer

The Accounting Officer stated that it wastrue that during the year under review, the Exchequer issued notifications to the project amounting to Kshs. 393,081,164 while the actual amount received by the project during the financial year and recorded in the statement of receipts and payments was Kshs. 392,731,215 resulting to a difference of Kshs. 349,949. The Ministry of Health has disbursed the outstanding balance to NLTD-P Global fund account.

Committee Observations and Findings

- **(i) The explanation by the Accounting Officer that the Ministry of Health has disbursed the outstanding balance of Kshs. 349,949 to NLTD-P Global fund account was satisfactory.**
- **(ii) The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

GLOBAL FUND MALARIA ROUND 10 GRANT NO. (KEN-011-G13-M)

Basis for Qualified Opinion

265. Unremitted Statutory Deductions (PAYE)

Included in statement of receipts and payments for the year ended 30 June, 2016 is compensation of employees figure of Kshs.12,660,275 out of which Kshs.3,408,264 in relation to Pay As You Earn (PAYE) was deducted from the payroll during the year under review. However, as at the time of this audit, there was no evidence that the same had been remitted to Kenya Revenue Authority. Failure to remit the deductions to Kenya Revenue Authority is a breach of the law, and can attract penalities and interests.

Submission by Accounting Officer

The Accounting Officer stated that it was true that included in the statement of receipts and payments for the year ended 30th June,2016 is compensation of employees' figure of Kshs. 12,660,275 out of which Ksh. 3,408,264 in relation to PAYE was deducted from payroll during the year but not remitted to KRA.This was occasioned by lack of KRA PIN at the time of deduction. However, the program followed up with KRA and was assisted to remit and pay the deductions accordingly. The full amount of Kshs. 3,408,264 has been remitted.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer that the full amount of Kshs. 3,408,264 has been remitted to KRA was satisfactory.**
- **(ii) The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

266. Long Outstanding Imprest

Included in the statement of financial assets and liabilities as at 30 June, 2016 is outstanding imprests and advances amounting to Kshs.1,336,336 advanced to one officer on 3 April 2014 for support supervision of monitoring and evaluation. There was no evidence that the imprest was surrendered and the same has not been recovered from the officer despite various correspondences with the Ministry of Health on the same. In the circumstances, the validity and recoverability of the imprest balance of Kshs.1,336,336 is doubtful.

Submission by Accounting Officer

The Accounting Officer stated that included in the statement of assets and liabilities as imprest and advances is an imprest of Ksh. 1,336,336 issued to one officer on 3rd April, 2014 for support, supervision, monitoring and evaluation.This was still outstanding as at 30th June, 2016, however, the imprest has been refunded to the programme in full.

Committee Observations and Findings

- **(i) The explanation by the Accounting Officer that outstanding imprest amounting to Ksh. 1,336,336 issued to one officer on 3rd April, 2014 for support, supervision, monitoring and evaluation has been refunded was satisfactory.**
- **(ii) The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

HEALTH SECTOR SUPPORT PROJECT HEALTH SECTOR SERVICES FUND (HSSF) COMPONENT 1 IDA CREDIT NO. 4771-KE

Basis for Disclaimer of Opinion

267. Unsupported Cash Balances

The statement of financial assets and liabilities as at 30 June 2016 reflects a bank balance of Kshs.1,245,959,348. Included in this balance is Kshs.1,166,120,469 in respect of bank balances from the 47 counties that were not supported with bank confirmation certificates, bank reconciliation statements and cash books. Consequently, the validity and accuracy of the cash and cash equivalents balance of Kshs.1,245,959,348 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of Assets and liabilities as 30 June 2016 reflects a bank balance of Kshs. 1,245,959,348 of which Ksh 1,166,120,469 represents funds transferred to the 47 counties that were not supported by bank confirmation certificates, reconciliations statements and cashbooks. Ksh.1, 166,120,469 consists of funds advanced to health facilities in the then existing Districts before devolution. The private audit firm visited all the 47 counties to verify the unsupported balances and have prepared a Report which it will discuss with the Kenya National Audit Office on 19th June 2018.

Committee Observations and Findings

(i) **The submission by the Accounting Officer that a private audit firm visited all the 47 counties to verify the unsupported balances and have prepared a report which was discussed with the Kenya National Audit Office on 19th June 2018 was persuasive.**
(ii) **The Committee marked the matter as resolved.**

268. Irregular Payments

The bank reconciliation statement for Fund Account No:1000187137 revealed a payment in bank statement not in the cashbook of Kshs.382,797,148. The payment voucher availed in support of the same reflects an amount of Kshs.381,301,398 resulting in a difference of Kshs.1,495,750 and which was explained as exchange difference but was not captured in the financial statements. Further, the amount of Kshs.382,797,148, was a payment made to UNICEF HQS for cofinancing to the Global Vaccines Alliance which is not part of the Project's mandate. The approval documents attached indicate that the funds were to be sourced from Universal Health Coverage Support – JICA. Consequently, the payment to UNICEF made from the Project's funds was irregular.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Project Fund Account No.1000187137 bank reconciliation revealed a payment of Ksh. 382,797,148 for UNICEF-Global Vaccines Alliance whose support documents availed revealed Ksh. 381,301,398 resulting in a difference of Ksh.1,495,750. This was an erroneous payment made from the HSSF Fund account instead of Universal Health Coverage Support-JICA which has been corrected and the funds refunded back to the projectaccordingly and the statement of Account availed for audit review

Committee Observations and Findings

(i) **The submission by the Accounting Officer that there was an erroneous payment made from the HSSF Fund account instead of Universal Health Coverage Support-JICA which was corrected and the funds refunded back to the project accordingly and the statements of account availed for audit review was satisfactory.**
(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

OUTPUT BASED APPROACH (OBA) PROJECT CREDIT NO. 201065853

Basis for Qualified Opinion

269. Incomplete Research Publication

Included in the financial statements under note 8.5 is Kshs.6,310,000 being expenditure incurred on research for evaluating the impact of Output Based Approach(OBA) on health system strengthening. A publication of this research, in line with a memo dated 8 November 2015, was expected by January 2016. However, no publication or journals had been presented or availed for audit review by the time of this audit. It was therefore, not possible to ascertain whether there was value for money from the expenditure of Kshs.6,310,000 on research.

Submission by Accounting Officer

The Accounting Officer stated that it was true that included in the financial statements under Note 8.5 is Kshs 6,310,000 being expenditure incurred on research for evaluating the impact of Output Based Approach (OBA) on health system strengthening. However, no publication or journals had been presented or availed for audit review. At the time of audit the publication was not availed as the journal publication took longer than anticipated. However, the publication was completed in October 2016 and the same has been submitted for audit review

Committee Observations and Findings

The explanation by the Accounting Officer that the at the time of audit the publication was not availed as the journal publication took longer than anticipated, was completed in October 2016 and the same has been submitted for audit review was satisfactory..

Committee Recommendations

Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

12.0. MINISTRY OF TRANSPORT AND INFRASTRUCTURE

12.1. STATE DEPARTMENT OF INFRASTRUCTURE

FINANCIAL STATEMENTS FOR VOTE 1091

Mr. Julius K. Korir, the Accounting Officerfor Vote 1091, State Department of Infrastructure appeared before the Committee on 14th August 2018 to adduce evidence on the audited Financial Statements of Vote 1091 the State Department of Infrastructure for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **Eng. S.K Kogi - Chief Engineer;**
2. **Mr. Philip Wachira - Chief Finance Officer;**
3. **Mr. Emmanuel Oyugi - Ag. Head of Accounting Unit;**
4. **Mr. R. N Muleli - Accountant;**
5. **Eng. S. Kirioti – Ag. Director General KURA;**
6. **Eng. Zulea - Chief Engineer (M);**
7. **Eng. James Kung'u - Chief Engineer (Rocecs);**
8. **Eng. Luka Kimeli – Ag. Director General KeRRA);**
9. **Eng. Philemon K. Kandie - Deputy Director KeNHA;**
10. **Ms. Sopphie W. Mwangashi - Ass. Accountant General; and**
11. **Ms. Isebella A. Odolo - Personal Assistant to PS**

Basis for Adverse Opinion

270. Inaccuracies in the Financial Statements Balances

Examination of the financial statements presented for audit revealed inaccuracies as outlined below:

270.1 Statement of Assets

270.1.1 Cash and Cash Equivalents' Balance Discrepancies

The statement of assets reflects a bank balance of Kshs.327, 071,125 as at 30 June 2016. However, the supporting cashbooks for this balance reflect a balance of Kshs.300,800,231 resulting in an unexplained net difference of Kshs.26,270,894 as summarized below:

Account No.	Account Name	Statements of Assets Kshs.	Cash Book Kshs.	Difference Kshs.
1000209925	Recurrent	519,666	27,650,575	-27,130,909
1000209844	Development	72,925,351	301	72,925,050
1000212535	Deposits	250,713,023	240,597,922	10,115,101
1000231157	KTSSP Project	2,213,085	3,296,956	-1,083,871
1138520586	NUTRIP project	0	28,554,477	-28,554,477
CBK-165		700,000	700,000	0
TOTAL		**327,071,125**	**300,800,231**	**26,270,894**

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of assets reflects a difference of Kshs.26, 270,894. This is as a result of using bank balance instead of cashbook bank balance. The financial statement shall be adjusted accordingly.

Committee Observations and Findings

The statement of assets reflects a difference of Kshs.26, 270,894. This is as a result of using bank balance instead of cashbook bank balance.

Committee Recommendations

Accounting Officers must at all times comply with the provisions of Section 68(2) of the PFM Act 2012 that requires accounting officers to keep complete financial and accounting records that are fully reconciled and are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010.

270.2 Accounts Payables - Deposits and Retentions

The statement of assets reflects an accounts payable balance of Kshs.250,713,023 which is disclosed under Note 13 to the financial statements as Deposits. Review of the balance and the related records revealed the following anomalies:

a) Lack of Supporting Documents

Details on the composition of Kshs.250,713,023 reflected as payables were not availed for audit verification. Further, audit examination of the Deposit cash book showed that it had a balance of Kshs.240,597,922 as opposed to the reported balance of Kshs.250,713,023 resulting in a variance of Kshs. 10,115,101.

(i) Submission by Accounting Officer

The Accounting Officer stated that true that details on the composition of Kshs.250,713,023 reflected as payables were not availed for audit verification. Further, audit examination of the

Deposit cash book showed that it had a balance of Kshs.240,597,922 as opposed to the reported balance of Kshs.250,713,023 resulting in a variance of Kshs.10,115,101.

Committee Observations and Findings

Details on the composition of Kshs. 250,713,023 reflected as payables were not availed on time for audit verification. Further, audit examination of the Deposit cash book showed that it had a balance of Kshs. 240,597,922 as opposed to the reported balance of Kshs. 250,713,023 resulting in a variance of Kshs. 10,115,101.

Committee Recommendations

The Accounting Officers must at all times provide all documents required by the Auditors in line with Section 9(1e) of the Public Audit Act, 2015 which gives the Auditor-General powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities.

b) Un-explained Reduction of Payables

Comparison of the payables balance for the year under review and that of the previous year showed that the payable balance reduced from Kshs.33,212,868,865 in 2014/15 to Kshs.250,713,023 in 2015/16 financial year representing a reduction by Kshs.32,962,155,842. However, the change in the balance was not explained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that a comparison of the payables balance for the year under review and that of the previous year showed that the payable balance reduced by Kshs.32,962,155,842. The amount of Kshs.33,212,868,865 was system generated liabilities.

Committee Observations and Findings

- **(i) Comparison of the payables balance for the year under review and that of the previous year showed that the payable balance reduced by Kshs. 32,962,155,842. According to the Accounting Officer, the amount of Kshs. 33,212,868,865 was system generated liabilities; and**
- **(ii) The explanation of the accounting officer that the amount of Kshs. 33,212,868,865 was system generated liabilities is satisfactory.**

Committee Recommendations

Accounting officers must at all times comply with the provisions of Section 68(2) of the PFM Act 2012 that requires accounting officers to keep complete financial and accounting records that are fully reconciled and are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010.

270.3 Account Receivables

A review of supporting documents and schedules on the balance of Kshs.1,180,648,413 reflected as receivables in the statement of assets revealed the following matters:

i. **Clearance Accounts**

Included in the balance of Kshs.1,180,648,413 is an amount of Kshs.1,104,260,165 described as Clearance Accounts. The management did not provide documents to support the total balance of Kshs. 1,104,260,165.

Submission by Accounting Officer

The Accounting Officer stated that it was true that included in the balance of Kshs.1,180,648,413 is an amount of Kshs.1,104,260,165 described as Clearance Accounts. The management did not provide documents to support the total balance of Kshs. 1,104,260,165. As earlier explained, we are consultation with the National Treasury to resolve the outstanding issues generated by the IFMIS systems.

Committee Observations and Findings

(i) **Accounts Receivables includes an amount of Kshs. 1,104,260,165 described as Clearance Accounts. The management did not provide documents to support the total balance of Kshs. 1,104,260,165. ;**

(ii) **The entity is in consultation with the National Treasury to resolve the outstanding issues generated by the IFMIS systems.**

Committee Recommendations

The Accounting Officer and the National Treasury should within three (3) months of adoption of this report resolve the outstanding issues generated by the IFMIS systems and resubmit the books for audit.

ii. **Government Imprest**

The financial statements show a figure of Kshs.506,139 on Government imprests. However, examination of the imprests register and schedules presented in support of the financial statements, revealed that the total amount of imprests outstanding at the close of the year was Kshs.972,569. The outstanding imprests balance is therefore understated by Kshs. 466,430

Submission by Accounting Officer

The Accounting Officer stated that it was true that the financial statements show a figure of Kshs.506,139 on Government imprests while the imprests register and schedules presented in support of the financial statements, revealed that the total amount of imprests outstanding at the close of the year was Kshs.972,569.

Impressts had been outstanding and going to be adjusted in the Financial Statement. However, all outstanding imprests have been accounted for.

Committee Observations and Findings

The financial statements show a figure of Kshs. 506,139 on Government imprests while the imprests register and schedules presented in support of the financial statements, revealed that the total amount of imprests outstanding at the close of the year was Kshs. 972,569.

271. Bank Reconciliation Statements

Examination of the Bank reconciliation statements presented in support of the bank balance of Kshs.327,071,125 as at 30 June 2016, revealed the following unsatisfactory matters:

(a**)** **Recurrent Bank Account**

i. Stale Cheques

The bank reconciliation statement for recurrent bank account shows Kshs.3, 524,991,742 as payments in cash book not recorded in bank statement. Included in this amount is a total of Kshs.20, 410,250 comprising of cheques which have been outstanding for more than six months and are unlikely to be cleared by the bank. Management did not explain why these payments had remained outstanding for so long.

Submission by Accounting Officer

The Accounting Officer stated that it was true that as at 30 June, 2016 included as payments in cash book not recorded in bank statement was an amount of Kshs.20, 410,250 comprising of cheques which are outstanding for more than six months.

However, these are not stale cheques but cashbook entries on transfer of funds to clients who had not submitted proper bank accounts or had not defined in the IFMIS system. However, the matter has since been cleared and evidence availed to the Auditor.

Committee Observations and Findings

That as at 30 June, 2016 included as payments in cash book not recorded in bank statement was an amount of Kshs.20, 410,250 comprising of cheques which are outstanding for more than six months. However, these are not stale cheques but cashbook entries on transfer of funds to clients who had not submitted proper bank accounts or had not defined in the IFMIS system. However, the matter has since been cleared and evidence availed to the Auditor.

Committee Recommendations

The explanation by the accounting oficer was satisfactory and, therefore, the matter is resolved.

ii. Receipts in Bank Statement not recorded in Cash Book

The reconciliation statement also shows an amount of Kshs.11, 045,760 as receipts in bank statement not recorded in cash book. However, no information or documents were availed to confirm the nature of the receipts.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Reconciliation Statement also shows an amount of Kshs.11,045,760.05 as receipts in bank statement not recorded in Cash Book. However, most are not returned cheques but rather surrenders of unspent funds or remittances of

Appropriation – in – Aid from the districts/sub counties to the Directorate's CBK Bank account. However, the matter has since been cleared and evidence availed to the Auditor.

Committee Observations and Findings

The reconciliation statement also shown an amount of Kshs. 11,045,760.05 as receipts in bank statement not recorded in Cash Book. However, most are not returned cheques but rather surrenders of unspent funds or remittances of Appropriation – in – Aid from the districts/sub counties to the Directorate's CBK Bank account. However, the matter has since been cleared and evidence availed to the Auditor.

Committee Recommendations

The explanation by the accounting oficer was satisfactory and, therefore, the matter is resolved.

iii. Payments in Bank statements not recorded in Cash Book

The bank reconciliation statement shows an amount of Kshs.36, 559,281 as payments in the bank statement not yet recorded in the cash book. Included in the amount are items totaling Kshs.19, 543,471 which have been outstanding for more than six months. Management has not provided information on the payments and why these have not been resolved.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Reconciliation Statement also shows an amount of Kshs.19, 543,471 as payment in bank statement not recorded in cashbook. Most of the outstanding reconciliation issues were posted in the cashbook during the subsequent month of July 2016. However, the matter has since been cleared and evidence availed to the Auditor.

Committee Observations and Findings

The accounting officer stated that it was true that the Reconciliation Statement also shows an amount of Kshs.19, 543,471 as payment in bank statement not recorded in cashbook. Most of the outstanding reconciliation issues were posted in the cashbook during the subsequent month of July 2016. However, the matter has since been cleared and evidence availed to the Auditor.

Committee Recommendations

The explanation by the accounting oficer was satisfactory and, therefore, the matter is resolved.

iv. Receipts in Cash Book not recorded in Bank Statement

The statement also shows a balance of Kshs.83,050,078 as receipts in cash book not recorded in bank statement which include a total of Kshs.365,425 described as cash book under casts. Cash book adjustments are by nature not reconciling items since they are passed to correct errors. Therefore, the validity of the said balance could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement also shows a balance of Kshs.83,050,077.85 for receipts in Cash Book not recorded in bank statement which included a total of Kshs.365,425.15 described as cashbook under casts.

Committee Observations and Findings

The statement also shows a balance of Kshs. 83,050,078 as receipts in cash book not recorded in bank statement which include a total of Kshs. 365,425 described as cash book under casts.

Committee Recommendations

The explanation by the accounting oficer was satisfactory. However, the accounting officer must at all times ensure the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012

(b) Development Bank Account

The bank reconciliation statement for the Development Bank account shows an amount of Kshs.5, 955,908,818.25 as payment in cashbook not yet recorded in the bank statement. Review of the supporting schedule for the balance shows an item described as treasury unspent balance amounting to Kshs.72, 925,350.75 which was however not analyzed. The balance also includes an amount of Kshs.247, 500 dated 29 June 2016 described as cashbook under-cast which should not appear as a reconciling item.

In the circumstances, the accuracy and correctness of the bank balance of Kshs.327, 071,125 as at 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer state that it was true that the Bank Reconciliation Statement for the above account shows amount of Kshs.5,955,908,818.25 showed an item described as Treasury Unspent Balance amounting to Kshs.72,925,350.75.It was also true that the balance also includes an amount of Kshs.247, 500/- dated 29th June, 2016 described as cashbook under-cast. The Treasury Unspent Balance amounting to Kshs.72, 925,350.75 was the unspent exchequer for financial year 2015-2016 surrendered to the National Treasury on 22nd July 2016 as shown on the Bank Statement.The under casts of Kshs.247,500 has been corrected by way of journal entries to correct the anomaly.

Committee Observations and Findings

(i) **Bank Reconciliation Statement for the development bank account showed amount of Kshs. 5,955,908,818.25 showed an item described as Treasury Unspent Balance amounting to Kshs. 72,925,350.75. The balance also included an amount of Kshs.247, 500/- dated 29th June, 2016 described as cashbook under-cast;**

(ii) **The Treasury Unspent Balance amounting to Kshs.72, 925,350.75 was the unspent exchequer for financial year 2015-2016 surrendered to the National Treasury on 22nd July 2016. The under casts of Kshs. 247,500 has been corrected by way of journal entries to correct the anomaly**

Committee Recommendations

The explanation by the Accounting Oficer was satisfactory and, therefore, the matter is resolved.

272. Pending Bills

Note 15 to the financial statements shows that the Department had outstanding bills totaling Kshs.122, 496,227 as at 30 June 2016. The management did not explain the reason for committing the Department's resources in excess of funds available. Had the pending bills been paid in the year under review, the reported surplus would have been reduced to Kshs.1, 102,690,296 as opposed to the reported surplus of Kshs.1, 225,186,523.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Department had outstanding bills totaling Kshs.122, 496,227 as at 30 June 2016. The pending bills were mainly due to Non receipt of the entire budgeted exchequer.

I however wish to notify the Committee that all these bills were subsequently paid in the financial year 2016/2017.

Committee Observations and Findings

The Department had outstanding bills totaling Kshs.122, 496,227 as at 30 June 2016. The pending bills were mainly due to non-receipt of the entire budgeted exchequer.

Committee recommendation

The Cabinet Secretary, National Treasury and the relevant institutions must make demonstrable efforts in collecting and accounting for tax revenue arrears for PAYE and Other Income Tax. The tax policy, reforms, & administrative measures should be geared towards collecting the arrears of revenue due and uncollected; sealing leaking revenue loopholes; providing the requisite support to SMEs entrepreneurs; leveraging on ICT to harness the country's revenue potential, and use of alternative disputes resolutions (ADR) mechanism to solve revenue related disputes.

273. Operations of Deposit Account

Audit review of the operations of the deposit account during the year revealed that retention refunds totaled Kshs.22, 190,587. However, examination of documents supporting the balance revealed that the retention monies were paid out without reference to original retention receipts.

Further, the balance included Kshs.1, 573,465 paid to a contractor without proof of completion of works done under the contract. In the circumstances, it has not been possible to confirm whether the refunds totaling Kshs. 22,190.587 were valid.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the operations of the deposit account during the year revealed that retention refunds totaled Kshs.22,190,587. However, examination of documents supporting the balance revealed that the retention monies were paid out without reference to original retention receipts. Further, the balance included Kshs.1,573,465 paid to a contractor without proof of completion of works done under the contract.

In the absence/misplacement of original receipts, use of sworn affidavit is acceptable. In addition, the retained amount is reflected in the works certificate which shows total amount of work certified, less the retained amount. The completion certificates are now attached to the two payment vouchers.

Committee Observations and Findings

- **(i) The operations of the deposit account during the year revealed that retention refunds totaled Kshs. 22,190,587. However, examination of documents supporting the balance revealed that the retention monies were paid out without reference to original retention receipts. Further, the balance included Kshs. 1,573,465 paid to a contractor without proof of completion of works done under the contract.**
- **(ii) The completion certificates are now attached to the two payment vouchers.**
- **(iii)The Committee marked the matter as resolved.**

Other Matter

274. Unresolved Prior Year Matters - Inaccuracies in the financial statements for the Year ended 30 June 2015

The financial statements for the year ended 30 June 2015 had the following inaccuracies:

274.1 Accounts Receivables

Included in the receivables balance of negative Kshs.41,992,571,850 was a credit balance of Kshs.41,994,231,622 as summarized below whose details or supporting documents were not availed for audit:

Suspense & clearance	12,326,946
Differences	-42,006,558,568
	-41,994,231,622

As a result of this discrepancy, it was not possible to confirm the accuracy and correctness of account receivables balance of negative Kshs.41,992,571,850 as at 30 June 2015 and why receivables had a credit (negative) balance.

Submission by Accounting Officer

The Accounting Officer stated that it was true that receivables balance had a negative balance of Kshs41, 992,571,850 as at 30 June 2015. The analysis of the Suspense and Clearance balance (District Suspense) of Kshs.12, 326,945.80 is supported by the Trial balance as at 30th June 2015.

The difference of Kshs.41, 992,571,850 is an IFMIS generated balance. The Department is in touch with the IFMIS section of the National Treasury with objective of reconciling the outstanding matters as shown in internal memo from former Head of Accounting Unit shown in a meeting convened by the National Treasury was also held on 21st February 2018 to resolve IFMIS related challenges experienced by Departments.

Committee Observations and Finding

(i) **The Integrated Financial Management Information Systems (IFMIS) which was introduced as part of the Public Finance Management (PFM) reform initiative aimed at automating and streamlining, Government's financial management processes and procedures has not met its key objective. The PFM financial statements and record keeping is still riddled with basic anomalies including reconciliations exposing public funds to abuse; and**

(ii) **There are persistent systemic challenges with IFMIS record keeping where for instance, in the financial year, the State Department's financial statements had difference of Kshs. 41,992,571,850 as a balancing figure on the Statement of Financial Position accruing from usage of IFMIS generated balances. These challenges have been continuously brought to the attention of Cabinet Secretary for the National Treasury by the Accounting Officers.**

Committee Recommendation

(i) **The Cabinet Secretary, National treasury should ensure that reconciliation of data should be done within the IFMIS system.**

(ii) **The Cabinet Secretary, National Treasury should, within three (3) months of adoption of this report, review and present policy guidelines to the National Assembly relating to processes including reporting and efficacy of the IFMIS system.**

74.2 Accounts Payables and Deposits

The statement of financial position disclosed an account payables balance of Kshs.33,212,868,865 made up of deposits, other liabilities and system required liabilities of Kshs.264,258,608, Kshs.30,827,757 and Kshs.32,917,782,500 respectively. The Accounting Officer explained that the deposit amount of Kshs.264, 258,608 represents the bank balance on the deposit account. However, the deposit account cash book balance as at 30 June 2015 was Kshs.265, 118,800 resulting in an unexplained difference of Kshs. 860,192.

Further, the figure of Kshs.30, 827,757 representing other liabilities and Kshs.32, 917,782,500 representing system required liabilities were not analyzed. In addition, the Department had not disclosed pending bills as at 30 June 2015 for recurrent and development vote amounting to Kshs.57, 651,140 and Kshs.30, 265,963 respectively.

In the circumstances, the accuracy and correctness of the accounts payables balance of Kshs.33, 212,868,865 as at 30 June 2015 could not have been confirmed.

Submission by Accounting Officer

The Accounting Officer stated that they were in agreement with the Auditor's observation and wish to respond as follows:-

(i) That the Deposits balance of Kshs.264, 258,608.00 disclosed in the Statement of Financial Position was an error which will be amended during the revision of the Financial Statements to tally with the adjusted cash book balance. This was an error in the deposit cashbook occasioned by double posting of a payment. The balance has since been amended to Kshs.266, 632,602.30 as per cashbook extract.

(ii) Other Liabilities and System Required Liabilities respectively are IFMIS generated. As indicated above, we are in touch with IFMIS Department of the National Treasury to clear the outstanding balances.

(iii) It was also true the Ministry did not disclose the pending bills as at 30th June 2015.

Submission by Eng. John Mosonik

(i) Eng. Mosonik submitted that the Deposits balance of Kshs 264,258,608 shown in the Statement of Financial Position was erroneous as it was not the applicable bank balance. The deposit account cash bank balance was earlier stated as Kshs 265,118,800 that was prior to correction of a double posted payment figure of Kshs 1,513,802. After the correction, the cash book bank balance stands at Kshs 266,632,602 as shown on. A Deposits bank reconciliation statement as at 30 June 2015 to reconcile the balance as per bank certificate to cash book bank balances shown on. The correct bank balance of Kshs 266,632,602 which will be applied in the revised Financial Statements.

(ii) Other Liabilities for Kshs. 30,827,757 and System Required Liabilities for Kshs 32,917,782,500 respectively are IFMIS generated as shown in the Trial Balance. With assistance from IFMIS department of the National Treasury, reconciliation was done leading to the initially balance of Kshs 32,917,782,500 reducing to Kshs 13,007,903,985 in the Trial Balance. This was disclosed in the revised financial statements for 2014-2015 financial year forwarded to the National Assembly through our letter MOTIHUD&PW/I/A/97.05/VOL.1 (27) dated 21st January, 2019.It is anticipated that after completion of the reconciliation of the accounting records, this outstanding balance will further reduce.

(iii) It was also true the Ministry inadvertently did not disclose the pending bills as at 30th June 2015. The Pending bills schedule had been availed during our earlier appearances before the

Public Accounts Committee and are shown in and shall be disclosed in the revised Financial Statement.

Committee Observations and Findings

(i) The Integrated Financial Management Information Systems (IFMIS) which was introduced as part of the Public Finance Management (PFM) reform initiative aimed at automating and streamlining, Government's financial management processes and procedures has not met its key objective. The PFM financial statements and record keeping is still riddled with basic anomalies including reconciliations exposing public funds to abuse; and

(ii) The Accounting Officer prepared the financial statements with errors and inadvertently failed to disclose the pending bills as at 30th June 2015 contrary to the provisions of Section 68 of the Public Finance Management Act 2012.

Committee Recommendations

The Integrated Financial Management Information Systems (IFMIS) has persistently been bedeviled by various challenges that impede effective public finance management. The Cabinet Secretary for the National Treasury should, within three months (3) after adoption of this report, submit to the National Assembly an IFMIS reconfiguration plan that support timely budget execution;

274.3 Cash and Cash Equivalents

The statement of financial position also reflected total cash and cash equivalents of Kshs.75, 237,260,707 as at 30 June 2015 while the supporting records and documents showed total cash and cash equivalents' balance of Kshs.389, 670,252. The variance of Kshs.74, 847,590,455 had not been reconciled or explained and therefore the accuracy of total cash and cash equivalents' balance was doubtful.

Submission by Accounting Officer

The Accounting Officer stated that it was true the financial statements as at 30th June 2015 reflected a variance of Kshs.74, 847,590,454.95 in the cash and cash equivalents and the statement of cash flows. The variance of Kshs.74, 847,590,455and statement of cash flows variance of Kshs.8,747,882,993.25 is as a result of system generated balance. The Department is in process of revising its financial statements, after which the correct balances will be reflected.

Committee Observations and Findings

(i) The financial statements as at 30th June 2015 reflected a variance of Kshs.74, 847,590,454.95 in the cash and cash equivalents and the statement of cash flows. The variance of Kshs.74, 847,590,455 and statement of cash flows variance of Kshs. 8,747,882,993.25 is as a result of system generated balance. The Department is in process of revising its financial statements, after which the correct balances will be reflected; and

(ii) **The IFMIS which was introduced as part of the Public Finance Management (PFM) reform initiative aimed at automating and streamlining, Government's financial management processes and procedures has not met its key objective. The PFM financial statements and record keeping is still riddled with basic anomalies including reconciliations exposing public funds to abuse.**

Committee Recommendations

The Integrated Financial Management Information Systems (IFMIS) has persistently been bedeviled by various challenges that impede effective public finance management. The Cabinet Secretary for the National Treasury should within three months after adoption of this report submit to the National Assembly an IFMIS reconfiguration plan that support timely budget execution and seal loophole for siphoning public money;

274.4 Bank Balances

Included in total cash and cash equivalents balance of Kshs.75, 237,260,707 was a bank balance of Kshs.267, 935,814 composed of Kshs.266, 632,602 and Kshs.1, 303,212 for Deposits and Kenya Transport Sector Support Project (KTSSP) bank balance respectively. However, the cashbooks and the supporting bank reconciliations reflected a bank balance of Kshs.389, 670,252. Apparently, the bank balance of Kshs.267, 935,814 excluded Kshs.121, 139,158 and Kshs.2, 109,083 in respect of recurrent and development bank account balances respectively. In addition, deposit account cash book showed a balance of Kshs.265, 118,800 resulting in a difference of Kshs.1, 513,802. The bank balance was therefore understated by Kshs.123, 248,240.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the bank balance of Kshs.267,935,814 excluded Kshs.121,139,158 and Kshs.2,109,083 in respect of recurrent and development bank account balances respectively and that deposit account showed a difference of Kshs.1,513,802.

The accounting officer stated that as indicated above, the correct balance of deposits is Ksh 266,632,602.30. The earlier omitted balances for recurrent and development bank account for Kshs.121, 139,157.70.

Submission by Eng. Mosonik

It was true that the bank balance of Kshs.267,935,814 excluded Kshs.121,139,158 and Kshs.2,109,083 in respect of recurrent and development bank account balances respectively and that deposit account showed a difference of Kshs.1,513,802.

He stated the following:

i. As indicated above, the correct balance of deposits is Kshs. 266,632,602.30.
ii. The earlier omitted balances for recurrent and development bank account for Kshs. 121,139,157.70 and Kshs 2,109,082.60 respectively will be included in the Revised Financial Statements.

Committee Observations and Findings

The financial statement of the entity as was prepared by the Accounting Officer and submitted to the Auditor General had bank balance of Kshs. 267,935,814 which excluded Kshs. 121,139,158 and Kshs. 2,109,083 in respect of Recurrent and Development Bank Account balances respectively and that Deposit Account showed a difference of Kshs. 1,513,802.

Committee Recommendation

The Integrated Financial Management Information Systems (IFMIS) has persistently been bedeviled by various challenges that impede effective public finance management. The Cabinet Secretary for the National Treasury should within three months after adoption of this report submit to the National Assembly an IFMIS reconfiguration plan that support timely budget execution.

274.5 Cash Balance

The statement of assets further reflected cash balance of Kshs.74, 969,324,893 which was however not analyzed. In addition, the board of survey confirmed that there was no cash balance as at 30 June 2015.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.75, 237,260,707 as at 30 June 2015 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true the cash balance of Kshs.74, 969,324,893.25 was not analyzed and that the board of survey confirmed there was no cash balance as at 30th June 2015. The figure of Kshs, 74,969,324,893.25 was IFMIS system generated. Following uploading of bank statements to IFMIS the auto generated cash balance has reduced to Kshs.56, 515,365,436. The uploading process is still ongoing and it is expected that the IFMIS balance will agree with the cash on hand balance.

Committee Observations and Findings

The Integrated Financial Management Information Systems (IFMIS) which was introduced as part of the Public Finance Management (PFM) reform initiative aimed at automating and streamlining, Government's financial management processes and procedures has not met its key objective. The PFM financial statements and record keeping is still riddled with basic anomalies such as miss-posting in the IFMIS General Ledger

Committee Recommendations

The IFMIS has persistently been bedeviled by various challenges that impede effective public finance management. The Cabinet Secretary for the National Treasury should within three

months after adoption of this report submit to the National Assembly an IFMIS reconfiguration plan that support timely budget execution.

274.6 Net Increase in Cash-and-Cash Equivalents

The statement of cash flow for the year ended 30 June 2015 showed net increase in cash- and-cash equivalents of Kshs.8, 747,882,993. However, addition of cash flows from all activities revealed that there was actually a net decrease in cash and cash equivalents by the same amount.

Submission by Accounting Officer

The Accounting Officer stated that it was true that there was actually a net decrease in cash and cash equivalent of Kshs.8, 747,882,993. The description in the financial statement will be amended accordingly.

Submission by Eng. John Mosonik

It was true that there was actually a net decrease in cash and cash equivalent of Kshs 8,747,882,993. As earlier mentioned, the Financial Statements for 2014-2015 financial year were revised and submitted to the Clerk, National Assembly. The Statement of Cash Flow show a net increase of Cash and Cash Equivalent of Kshs.31,819,992.

Committee Observation and Finding

The statement of cash flow of the entity as at 30th June 2015 as was prepared by the Accounting Officer and submitted to the Auditor General indicated net increase in cash and cash equivalents of Kshs. 8,747,882,993.25. However, addition of cash flows from all activities reveals that there was actually a net decrease in cash and cash equivalents of the same amount. This has not been amended accordingly.

Committee Recommendation

The erstwhile Accounting Officer of the entity should have ensured that the entity kept correct financial and accounting records that are supported by necessary documents and reconciled in line with Section 68 of the PFM Act 2012. The present Accounting Officer should ensure that error is corrected and the financial statements re-submitted to the Auditor General for audit review.

274.7 Cash and Cash Equivalents at the end of the Year

The statement of cash flows also reflected Kshs.8,747,882,993 as balance of cash-and cash-equivalents as at 30 June 2015, while the statement of financial position reflected Kshs.75,237,260,707 despite the fact that the audited cash and cash equivalent was Kshs.389,670,252. The discrepancies among these three similar accounts were not explained.

Submission by Accounting Officer

The Accounting Officer stated that it was true the cash flow statements as at 30th June 2015 and the cash and cash equivalent differed, despite the fact that cash and cash equivalents reflected

Kshs.389,670,252. The Kshs. 75,237,260,707 is IFMIS generated. The cash flow amount of Kshs. 8,747,882,993 is derived from calculations arising from input of system generated bank balances. The Ministry is in consultation with National Treasury to clear the outstanding balances.

Committee Observations and Findings

The statement of cash flows also reflected Kshs.8,747,882,993 as balance of cash-and cash-equivalents as at 30 June 2015, while the statement of financial position reflected Kshs.75,237,260,707 despite the fact that the audited cash and cash equivalent was Kshs.389,670,252. The discrepancies among these three similar accounts were not explained. The Ministry is in consultation with National Treasury to clear the outstanding balances.

Committee Recommendations

The Accounting Officer and the National Treasury should, within three (3) months of adoption of this report, resolve the outstanding issues generated by the IFMIS systems and re-submit the books for audit.

274.8 Transfers to Other Government Agencies

The statement of receipts and payments for the year ended 30 June 2015 showed an amount of Kshs.84,478,361,622 on account of transfers to other Governments Agencies comprising Kshs.23,409,273,292 and Kshs.61,069,088,329 relating to Recurrent and Development votes respectively.

However, examination of the supporting documents for development vote showed a balance of Kshs. 61,614,881,791 as follows:

Journal vouchers (Direct payment)	29,818,825,899
Payment vouchers-	31,796,055,892
Total	**61,614,881,791**

The variance of Kshs.545,793,461 between the balance of Kshs.61,069,088,329 shown in the financial statements and that of Kshs.61,614,881,740 reflected in the supporting documents was not explained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of receipts and payments for the year ended 30 June 2015 showed a variation of Kshs.545,793,461 between the financial statements and that of the supporting documents. The variation has been noted and that the financial statements will be amended to Kshs.61,614,881,740 as per supporting documents.

Submission by Eng. John Mosonik

It was not true that the statement of receipts and payments for the year ended 30 June 2015 showed a variation of Kshs 545,793,461 between the financial statements and that of the supporting documents.

(i)The figure for journals vouchers (Direct Payments) for Kshs 29,818,825,899 is supported by proceeds from Foreign Borrowings (Kshs 24,746,958,750) and Proceeds from Foreign Grants (Kshs 5,030,114,823).
(ii)The payment vouchers total figure is not Kshs 31,796,055,892 but our earlier figure of Kshs 31,250,262,431.

Committee Observation and Finding
The statement of receipts and payments of the entity as at 30th June 2015 as was prepared by the Accounting Officer and submitted to the Auditor General indicated amount of Kshs. 84,478,361,621.50 on account of transfers to other government agencies comprising Kshs. 23,409,273,292.15 and Kshs. 61,069,088,329.35 relating to Recurrent vote and Development vote respectively. However, a review of the supporting documents indicated a balance of Kshs. 61,614,881,790.70. This has not been amended accordingly.

Committee Recommendations
The Accounting Officer should have ensured that the entity kept correct financial and accounting records that are supported by necessary documents and reconciled in line with Section 68 of the PFM Act 2012. The Accounting Officer should, therefore, ensure that error is corrected and the financial statements re-submitted to the Auditor General for audit review within three months of the adoption of this report.

274.9 Transfers from Other Government Entities
The statement of receipts and payments reflected an amount of Kshs.22,446,501,146 as having been received from Kenya Roads Board. However, examination of records from Kenya Roads Board showed that an amount of Kshs.25,036,325,644 was remitted to the Ministry for onward disbursement to roads authorities, resulting in unaccounted for transfers of Kshs. 2,589,824,498.

Submission by Accounting Officer
The Accounting Officer stated that the Ministry received an amount of Kshs.23,460,744,032 from K.R.B. However, the approved budget for the year was Kshs.22,446,501,146. Due to budgetary limitation, the Ministry returned Kshs.1,014,242,886.00 to K.R.B for re-voting in the subsequent year on 3rd July 2015. Due to timing differences, Kshs.884,208,451 in respect of funds released by KRB for Financial Year 2013-2014 was received by the Ministry in 2014-2015. Further Kshs.2,399,594,965 from KRB was received after closure of 2014/15 FY and thereby accounted for in the subsequent financial year. The difference between the two sets of records is mainly due to the different accounting methods of cash accounting for the Central Government and accrual accounting for the Parastatals.
Committee Observations and Findings
- **(i) The State Department received an amount of Kshs. 23,460,744,032 from Kenya Roads Board. However, the approved budget for the year was Kshs. 22,446,501,146**

resulting to underutilization of Kshs. 1,014,242,886.00 which was reported Kenya Roads Board for re-voting in the subsequent year; and

(ii) Due to timing differences Kshs. 884,208,451 in respect of funds released by Kenya Roads Board for FY 2013-2014 was received by the State Department in FY 2014/2015. Further Kshs. 2,399,594,965 from Kenya Roads Board was received after closure of FY 2014/15 and thereby accounted for in the subsequent financial year. These delays have been attributed to use of different accounting system by Kenya Roads Board and the State Department.

Committee Recommendations

The Cabinet Secretary for the National Treasury should, within three (3) months after adoption of this report, ensure that the Public Sector Accounting Standard Board (PSASB) in line with its functions as stipulated in Section 194 of the PFM Act 2012 embark on developing a framework & standards for the adoption of the IPSAS accrual basis of accounting and reporting by the national government MDAs as opposed to the IPSAS cash basis of accounting and reporting which has been in force since 1st July 2014 and has not addressed pertinent matters such as timing differences in accounting and reporting for revenue.

274.10 Appropriation in Aid Collected from Regional Offices

During the year 2014/2015, regional offices of the Department collected appropriationsin-aid (AIA) amounting to Kshs.14,568,050 which were not disclosed in the statement of receipts and payments for the year. Management did not provide a satisfactory explanation on the whereabouts of the funds.

Submission by Accounting Officer

The Accounting Officer stated that it was true that during the year under review Regional offices of Materials Department collected AIA amounting to Kshs.14,568,050 and only Kshs.5,641,950.00 was reflected in the Headquarter books leaving Kshs.8,926,100.00 still in the field District Accountants Bank accounts. I wish to state that Collections of AIA in the Region offices was being submitted to District Treasury. The collected amounts were accounted for through the District Accounting system. The details and evidence of remittance of the collections at the District Treasuries have been availed to the Auditors.

All the AIA was collected was accounted for under various All the AIA was collected was accounted for under various accounts.

Committee Recommendations

The Accounting Officer did not at the time of audit disclose A-I-A collected from field offices amounting to Kshs. 14,568,050 and did not provide to the Auditors, the relevant verifiable documentation to confirm the actual A-I-A collected. The matter is resolved as per the PAC report for the FY 2014/2015

274.11 Proceeds from Foreign Borrowing

The statement of receipts and payments further reflected Kshs.24,746,958,750 in respect of proceeds from foreign borrowing, which differed from the total of journal entries of Kshs.27,541,044,073 resulting in an understatement of Kshs.2,794,085,323. The correctness and accuracy of the statement of receipts and payments for the year ended 30 June 2015 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true the statement of receipts and payments differed from the total of journals by Kshs.2,794,085,323. However, the figure for Kshs.27,541,044,073 included journals supporting proceeds from foreign borrowing (loans) and foreign grants.

Committee Observations and Findings

The statement of receipts and payments of the entity as at 30th June 2015 as was prepared by the Accounting Officer and submitted to the Auditor General reflected Kshs. 24,746,958,749.65 as proceeds from foreign borrowing, which differs with total of journal entries of Kshs. 27,541,044,073.02 resulting in an understatement of Kshs. 2,794,085,323.40.

Committee Recommendations

The Accounting Officer should have ensured that the entity kept correct financial and accounting records that are supported by necessary documents and reconciled in line with Section 68 of the PFM Act 2012. The Accounting Officer should, therefore, ensure that error is corrected and the financial statements re-submitted to the Auditor General for audit review within three months of adoption of this report.

274.12 Proceeds from Foreign Grants

The statement of receipts and payments showed an amount of Kshs.5,030,114,823 as receipts from foreign grants. However, the supporting schedule and the ledger showed an amount of Kshs.3,861,475,171 resulting in an unexplained difference of Kshs.1,168,639,652.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the support schedule reflected an amount of Kshs.3,861,475,171 as receipts from foreign grant. The actual amount was Kshs.5,071,638,899.75 indicated in the revised Financial Statements for financial year 2014/2015.

Submission by Eng. John Mosonik

It was true that the support schedule reflected an amount of Kshs.3,861,475,171 as receipts from foreign grant. The actual amount was Kshs 5,031,915,908 for financial year 2014/2015. The difference of Kshs 1,170,440,737 relates to journal entries not captured in the IFMIS due to lack of budgetary provision. However, the journals recording the expenditure were inadvertently not processed. The same were captured and appeared in the ledger of February 2016.

Committee Observations and Findings

The statement of receipts and payments showed an amount of Kshs. 5,030,114,823 as receipts from foreign grants. However, the supporting schedule and the ledger showed an amount of Kshs. 3,861,475,171 resulting in an unexplained difference of Kshs.1,168,639,652

Committee Recommendations

The Accounting Officer should have ensured that the entity kept correct financial and accounting records that are supported by necessary documents and reconciled in line with Section 68 of the PFM Act 2012. The Accounting Officer should, therefore, ensure that error is corrected and the financial statements re-submitted to the Auditor General for audit review within three months of adoption of this report.

275. Consultancy Services for Prospecting and Mapping of Road Construction Materials Sources

The Department entered into two consultancy contracts of Kshs.78,340,020 and Kshs.51,500,126 on 9 May 2014 for hard stone materials and natural materials respectively as follows:

i. Contract No. CME/002/Rd/2013-2014 for consultancy services for prospecting and mapping sources of hardstone materials for road construction in Embu, Meru, Kitui, Machakos, Makueni and Tharaka Nithi counties was awarded to C. M. Kamau and Associates on 9 May 2014 for a contract sum of Kshs.78,340,020. The contract was to commence on 26 May 2014 and last for fifteen months.

ii. Another Contract No. CME/001/Rd/2013-2014 for consultancy services for prospecting and mapping sources of natural materials/gravel for road construction in Machakos, Makueni and Tharaka Nithi Counties was awarded to Norken (I) Ltd on 9 May 2014 for a contract sum of Kshs.51,500,126. The contract was also to commence on 26 May 2014 and last for fifteen months.

Examination of Development Vote Estimates showed that the two projects were not allocated any funds in the financial year 2014-2015.

It was noted that the two consultancies covered the same geographical area but it was not explained why they were not packaged as one consultancy contract.

There was no evidence submitted to show how results of prospecting and mapping under the two consultancies were applied and whether the public obtained value for money.

Submission by Accounting Officer

The Accounting Officer stated that it was true the Department entered into two (2) consultancy contracts of Kshs.78,340,020 and Kshs.51,500,126 on 9th May 2014 for prospecting and mapping sources of hard stone materials for road construction in Embu, Meru, Kitui, Machakos, Makueni and Tharaka Nithi counties for hard stone materials and natural materials as summarized below:-

No	Counties Covered	Consultant	Contract sum
1	Embu, Meru, Kitui, Machakos, Makueni and Tharaka/Nithi Counties	CM Kamau & Associates	78,340,020.00
2	Machakos, Makueni and Tharaka/Nithi Counties	Norken International Limited	51,500,125.60
	Total		**129,840,145.6**

The contracts were procured through open tender**.** The accounting officer respondedto the specific issues raised by the Auditor as follows:-

(i) Budgetary Allocation

The contracts were to be implemented in three (3) months financial years in accordance with MTRD Strategic Plan 2013-2017, procurement plans and budgetary allocations under Vote D1091, Head 1091000500 (Materials Department) and the item on Research, Feasibility Studies, Project Preparation and Design, Projects indicated below.

Financial Year	Item	Description	Approved Estimates (Kshs.)
2013/2014	3111400	Research, Feasibility Studies, Project Preparation and Design, Projects	71,668,800
2014/2015	3111400	Research, Feasibility Studies, Project Preparation and Design, Projects	78,464,400
2015/2016	3111400	Research, Feasibility Studies, Project Preparation and Design, Projects	93,150,000

(ii) Duplication of Scope

Contract No. CM/001 for Mapping of gravel sources covered 3 counties namely Machakos, Makueni and Tharaka-Nithi while Contract No. CM/002 for mapping of hard stone sources covered 6 counties namely Embu, Meru, Kitui, Machakos, Makueni and Tharaka-Nithi.

The scopes of services to be provided under the two contracts were different. The scope under the contract for mapping of gravel sources involved prospecting and sampling of soils using hand tools for gravel/murram road pavement layers while the contract for mapping of hardstone sources was Equipment intensive and involved prospecting and sampling of rock using drilling rigs to depths exceeding 10m for aggregates for road surfacing and concrete structures. The two scopes therefore required different contractor capacities including the specialized equipment for efficiency and cost effectiveness for the two projects.

(iii)Value for money

The Prospecting and mapping of sources of natural road construction materials is one of the strategies being undertaken by the Ministry to support the expansion of the public paved road network from 12,000Km (7.5%) to 24,000km (15%) and to facilitate reduction of the overall infrastructure development and maintenance costs in accordance with Ministry's strategic objectives under the second vision 2030 medium term plan (2013-2017). The programme is part of research programmes being undertaken by the Ministry through Materials Testing and Research Division, on construction materials, methods and delivery options to support the paved road network expansion programme with the objective of reducing the overall infrastructure development cost in the current medium term plan period. The State Department is implementing the programme using the following strategies:-

(i) Mapping of natural construction material sources;
(ii) Axle load surveys; and,
(iii)Profiling of alignment soils.

The Consultancies were geared towards supporting the following:

- The Roads 10000 Low Volume Seal Roads programme.
- The proposed EU funded Roads 2000 Programme in the Eastern Region Counties.
- Reduce the design costs and design period to about 3 months from the current 12 to 18 months taken for designs for medium to high volume traffic roads.

The outputs of the two studies are reports and mapping of both the natural gravel in the 3 Counties of Machakos, Makueni and Tharaka Nithi under the first Contract and report on mapping of hardstone sources in the 6 Counties of Embu, Meru, Kitui, Machakos, Makueni and Tharaka Nithi under the second Contract. Findings from the above studies have been applied in the design for the road upgrading of low volume sealed roads under the ongoing Roads 10,000 programme and the EU co financed Roads 2000 programme in the Eastern Region.

Committee Observations and Findings

i. **The submission tabled by the Accounting Officer explaining that the scopes of services to be provided under the two contracts were different.as Contract No. CM/001 for Mapping of gravel sources covered 3 counties namely Machakos, Makueni and Tharaka-Nithi while Contract No. CM/002 for mapping of hard stone sources covered 6 counties namely Embu, Meru, Kitui, Machakos, Makueni and Tharaka-Nithi was persuasive. However, no explanation was submitted for failure to present evidence to show how results of prospecting and mapping under the two consultancies were applied and whether the public obtained value for money.**

ii. **The Committee marked the matter as unresolved.**

Committee Recommendations

Within three months of the adoption of this report, the Accounting Officer (during the period under review) must provide the said reports and mapping of both the natural gravel in the 3 Counties of Machakos, Makueni and Tharaka Nithi under the first Contract and report on mapping of hardstone sources in the 6 Counties of Embu, Meru, Kitui, Machakos, Makueni and Tharaka Nithi under the second Contract for audit review.

276. Contract No.490/04 (Road 2000) Improvement and Gravelling of Athi Market – Kigucha Market Road D482

On 30 September 2002, the Ministry entered into a contract with Transnational Construction & Materials at a contract sum of Kshs.20,940,180 for improvement and gravelling of Road D482. The Contract commenced on 25 October 2002 with completion date of 24 April 2003 (6months).

Observations

i. The contract was terminated on 22 February 2005 more than two years after the end of the contract period on 24 April 2003.

ii. No extension of time had been granted to the contractor despite several requests and no liquidated damages were demanded from the contractor.

iii. The initial contract sum was Kshs.20,940,180 but the contractor was to be paid a total of Kshs.63,655,268.97 made up of an arbitration award of Kshs.55,235,909.97 and the sum of Kshs.8,419,359 paid before the contract was terminated.

iv. The contractor did not complete the road works as the contract was terminated. The arbitrator in awarding the damages noted that the termination of the project did not follow the procedures laid out in its contract agreement.

v. A review of the matter during the year under audit revealed that as at 30 June 2016, the Ministry had already paid a total of Kshs.38,200,000 as follows:

Date	Payment Voucher Number	Amount Kshs.
28.10.2013	001267	3,300,000
17.01.2014	002389	3,300,000
15.09.2014	000241	11,000,000
27.01.2015	002124	10,500,000
22.10.2015	002022	10,100,000
	Total	**38,200,000**

The unpaid balance of Kshs.17, 035,910 as at 30 June 2016 continues to attract interest until settled in full.

vi. In addition, as the initial contract sum was Kshs.20, 940,180, the extra expenditure of Kshs.42, 715,089 is a nugatory expenditure and should not have been a charge to public funds.

Submission by Accounting Officer

The Accounting Officer stated that it was true on 30 September 2002, the Ministry entered into a contract with Transnational Construction & Materials at a contract sum of Kshs.20,940,180 for improvement and gravelling of Road D482. The Contract commenced on 25 October 2002 with completion date of 24 April 2003 (6months). It is also true that the contract was terminated on 22 February 2005 more than two years after the end of the contract period on 24 April 2003. The Project was awarded under the Roads 2000 programme with financing from the European Union and GOK. The Contract was terminated due to Contractor nonperformance. The Contractor thereafter registered a dispute.

The accounting officer stated that

i. After the parties failed to resolve thematteramicably, Transnational Construction Company invoked provisions of the contract and on 16th February 2011 had an Arbitrator appointed by the High Court to arbitrate on the dispute.
ii. The arbitration was heard during which the Ministry's witness testified. The Arbitrator released the Final Award on 22nd February 2013 where he awarded the Claimant the sum of Kshs.55,235,909.97 and ordered that the ministry bears the cost of arbitration. The Arbitrator did further direct that the ministry pays Kshs.1,362,401.45 being part of his fees and Kshs.52, 200/- being part of stenographer's charges and cost.
iii. On 20th March 2013 the Attorney General formally communicated the Arbitrator's Award to the ministry. Thereafter vide letter dated 5th September 2013 the National Treasury granted authority for payment of the Award subject to availability of adequate funds in the Ministry's budgetary provisions. The Ministry could not pay the Contractor, the entire awarded amount at once owing to budgetary shortfalls. The payments were therefore paid in installments based on the budget provisions available. The amount awarded by the arbitrator has been paid by the ministry in full and the matter is now finalised.

iv. The Ministry was legally bound to settle the Arbitrator's Award which was indeed to be recognized and enforced as a decree of the High Court as ordered by Mr. Justice Havelock on 12th July 2013.

Committee Observations and Findings

(i) The Accounting Officer failed to provide satisfactory response to the Committee on audit query raised on the Contract No.490/0;

(ii) The erstwhile Accounting Officer of the State Department in the FY 2003/2004 mismanaged the contract: The contract was terminated on 22 February 2005 more than two years after the deadline of contract period of 24 April 2003; and no extension of time had been granted to the contractor despite several requests and no liquidated damages were demanded from the contractor;

(iii) The initial contract sum was Kshs. 20,940,180 but the contractor was to be paid a total of Kshs. 63,655,268.97 made up of an arbitration award of Kshs. 55,235,909.97 and amount paid before contract termination of Kshs. 8,419,359. Further, the contractor did not complete the road works as the contract was terminated. The arbitrator in awarding the damages noted that the termination of the project did not follow the procedures laid out in the signed contract;

(iv) As at 30 June 2015, the Ministry had already paid a total of Kshs. 21,500,000 vide payment voucher No.240 dated 8 September 2014 for Kshs. 11,000,000 and payment voucher No.2124 dated 10 February 2015 for Kshs. 10,500,000 leaving unsettled balance of Kshs. 42,155,268.90 which continues to attract interest until settled in full.

Committee Recommendations

The Accounting Officer should, within three (3) months of adoption this report, engage the Attorney General with a view to negotiating for settlement of the outstanding balance of Kshs. 42,155,268.90 which continues to attract interest.

277. Unresolved Issues Relating to Deposits Account

277.1 Unresolved Issues for Deposits Account for 2012/13 and Earlier Years

As reported in the previous year, the statement of assets and liabilities under deposits for the former Ministry of Roads reflected the following debit and credit balances relating to 2012/2013 and earlier years which besides being un-cleared for a long time had remained unanalyzed and unsupported as at 30 June 2016.

Account	**Amount (Kshs)**
	Debits
Recurrent AIA	(184,700)
General Suspense	255,702,281
District Deposit Bank	251,227
Provincial suspense account	22,250,046

R/D cheques	38,488
Fuel Levy	30,004,898
	Credits
Stale cheques	719,064
Revenue deposit	52,409,214
Mechanical Branch Suspense	687,268,445

Submission by Accounting Officer

The Accounting Officer stated that it was true as reported in the previous year, the statement of assets and liabilities under deposits for the former Ministry of Roads reflected the debit and credit balances relating to 2012/2013 and earlier years which besides being un-cleared for a long time had remained unanalyzed and unsupported as at 30 June 2016.

The Kenya Ethics and Anti- Corruption Commission (EACC) is investigating irregularities in respect of retention funds for financial years 2006/2007, 2007/2008, 2008/2009 and 2009/2010. Accounting documents in support of retention funds in respect of the above financial years were released to EACC that are inhibiting reconciliation of the outstanding debits and credits.

Submission by Eng. John Mosonik

It was true as reported in the previous year, the statement of assets and liabilities under deposits for the former Ministry of Roads reflected the debit and credit balances relating to 2012/2013 and earlier years which besides being un-cleared for a long time had remained unanalyzed and unsupported as at 30 June 2016.

The Kenya Ethics and Anti- corruption Commission (EACC) is investigating irregularities in respect of retention funds for financial years 2006/2007, 2007/2008, 2008/2009 and 2009/2010.Accounting documents in support of retention funds in respect of the above financial years were released to EACC that are inhibiting reconciliation of the outstanding debits and credits.

277.2 The statement as at 30th June 2013 reflected a balance of Kshs.1,192,886,515 on 10% retention money composed of a balance of Kshs.1,438,823,266, relating to 2011/2012 and earlier years and movement during the year of negative Kshs.245,936,752. However out of the balance of Kshs.1,438,823,266 reported in 2011/2012, an amount of Kshs.1,431,064,186 relating to 2009/2010 could not be verified from the retention money register since serial numbers of the receipts accounting for the retention moneys were not indicated. Further as reported in 2011/12, an amount of Kshs.11,822,080 released to a contractor was supported by receipts not issued for use in the Ministry's cash documents. The position remains unresolved to date.

Submission by Accounting Officer

The Accounting Officer stated that it wastrue an amount of Kshs.1,431,064,186 relating to 2009/2010 could not be verified from the retention money register since serial numbers of the receipts accounting for the retention moneys were not indicated. Further as reported in 2011/12, an amount of Kshs.11,822,080 released to a contractor was supported by receipts not issued for use in the Ministry's cash documents.

The accounting officer stated that as explained response of paragraph 277.1, accounting documents in support of retention funds in respect of the above financial years were released to EACC for investigations.

Committee Recommendations

- **(i) The EACC should expedite the on-going investigationsinto the irregularities regarding retention Funds for Years 2006/2007, 2007/2008, 2008/2009 and 2009/2010 with a view to prosecuting those involved in the misuse of public funds, if culpability is established.**

277.3 The schedule supporting the retention money closing balance of Kshs.1,192,886,515 reflected debit balances under various accounts amounting to Kshs.233,311,537 implying irregular over-refunding of retention money. One contractor was paid Kshs.17,213,703 when the account already had a debit balance of Kshs.59,940,017 resulting in an overpayment of Kshs.77,153,720. Payment voucher No.008618 for the amount of Kshs.17,213,703 paid was still not availed for audit review as at 30 June 2016.

Submission by Accounting Officer

The accounting officer stated that it was true that the schedule supporting the retention money closing balance of Kshs.1,192,886,515 reflected debit balances under various accounts amounting to Kshs.233,311,537 implying irregular over-refunding of retention money. As explained in my response of paragraph 277.1, accounting documents in support of retention funds in respect of the above financial years were released to EACC for investigations.

Committee Observations and Findings

- **(i) The Accounting Officer prepared and submitted to the Auditor General unverified amount of Kshs. 1,431,064,186 relating to the FY 2009/2010 that could not be traced in the Retention Money Register since serial numbers of the receipts accounting for the retention moneys were not indicated; Further as reported in 2011/12, an amount of Kshs. 11,822,080 released to a contractor was supported by receipts not issued for use in the Ministry's cash documents.**

Committee Recommendation

- **(i) The EACC should expedite the on-going investigationsinto the irregularities regarding retention Funds for Years 2006/2007, 2007/2008, 2008/2009 and 2009/2010 with a view to prosecuting those involved in the misuse of public funds, if culpability is established; and**
- **(ii) The Auditor General should within three (3) months after adoption of this report undertake a special audit on retention funds maintained at the State Department and report back to the National Assembly.**

277.4 Debit balances reflected in the 2011/2012 statement of Kshs.2,181,697,190 differed with the balance of Kshs.10,288,638,370 shown in the Ministry's trial balance as at 30 June 2012 by Kshs.8,106,941,180. Similarly, the credit balances totaling Kshs.2,181,697,190 differed with the trial balance totals of Kshs.3,335,760,496 by Kshs.1,154,063,305. Additionally several accounts totaling Kshs.72,528,192 and credit balances of Kshs.16,549,108,680 shown in the trial balance were excluded from the statement of assets and liabilities as at 30 June 2012.

Submission by Accounting Officer

The accounting officer stated that it was true that debit balances reflected in the 2011/2012 statement of Kshs.2,181,697,190 differed with the balance of Kshs.10,288,638,370 shown in the Ministry's trial balance as at 30 June 2012 by Kshs.8,106,941,180. Similarly, the credit balances totaling Kshs.2,181,697,190 differed with the trial balance totals of Kshs.3,335,760,496 by Kshs.1,154,063,305. Additionally several accounts totaling Kshs.72,528,192 and credit balances of Kshs.16,549,108,680 shown in the trial balance were excluded from the statement of assets and liabilities as at 30 June.

The accounting officer stated that as explained in his response of paragraph 277.1, accounting documents in support of retention funds in respect of the above financial years were released to EACC for investigations.

Committee Observations and Findings

Debit balances reflected in the 2011/2012 statement of Kshs.2,181,697,190 differed with the balance of Kshs.10,288,638,370 shown in the Ministry's trial balance as at 30 June 2012 by Kshs.8,106,941,180. Similarly, the credit balances totaling Kshs. 2,181,697,190 differed with the trial balance totals of Kshs. 3,335,760,496 by Kshs. 1,154,063,305. Additionally several accounts totaling Kshs.72,528,192 and credit balances of Kshs.16,549,108,680 shown in the trial balance were excluded from the statement of assets and liabilities as at 30 June

Committee Recommendations

The EACC should expedite the on-going investigations into the irregularities regarding retention Funds for Years 2006/2007, 2007/2008, 2008/2009 and 2009/2010 with a view to prosecuting those involved in the misuse of public funds, if culpability is established.

DONOR FUNDED PROJECTS

KENYA TRANSPORT SECTOR SUPPORT PROJECT (IDA CREDIT NO.4926/5410KE COMPONENT B1 - SUPPORT TO MINISTRY OF ROADS)

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this Project.

Committee Observations and Findings

The Committee commends the Project Team for the Kenya Transport Sector Support Project (IDA CREDIT NO.4926/5410KE Component B1 - Support to Ministry of Roads) for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

Committee Commendation

The Committee commends the Accounting Officer forthe Kenya Transport Sector Support Project (IDA CREDIT NO.4926/5410KE Component B1 - Support to Ministry of Roads) for maintaining financial statements of the Equalization Fund accounts that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT (IDA NO.5140KE)

Basis for Qualified Opinion

278. Special Account Reconciliation

The statement of receipts and payments reflects total receipts from development partners for the year as Kshs.48,744,572 while the special account statement prepared and submitted by National Treasury reflects Kshs.8,000,736.46 withdrawn to finance project activities. The variance of Kshs.40,743,835.54 has not been explained or reconciled.

Submission by Accounting Officer

The Accounting Officer stated that it was true statement of receipts and payments from Development Partners differs from statement prepared and submitted by National Treasury by Kshs.40,743,835.54. The Statement by the National Treasury only captured the receipts from the Development Partner while the State Department's Accounts captures both the Development Partner Component and the GOK counterpart portion.

Committee Observations and Findings

The statement of receipts and payments reflected total receipts from development partners for the year as Kshs. 48,744,572 while the special account statement prepared and submitted by National Treasury reflected Kshs. 8,000,736.46 withdrawn to finance project activities. The variance of Kshs. 40,743,835.54 was not explained or reconciled as at the time of audit;

Committee Recommendations

The explanation by the accounting oficer was satisfactory. However, the Accounting Officer must at all times ensure entity keeps up-to-date and timely reconcile its statements with the National Treasury records to fully comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012. Further, the Auditor-General should review the financial statements to ensure the variance of Kshs. 40,743,835.54 is fully reconciled.

12.2. STATE DEPARTMENT OF TRANSPORT

FINANCIAL STATEMENTS FOR VOTE 1092

Prof. P.M. Maringa the Accounting Officer for Vote 1092, State Department of Transport appeared before the Committee on 2nd August 2018 to adduce evidence on the audited Financial Statements of Vote 1092 the State Department of Transport for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **Mr. George Wanjau - Ag. Chief Economist;**
2. **Mr. Johnson Wambugu - Chief finance Officer;**
3. **Ms. Priscilla Karana - Ag. Head of Accounts;**
4. **Ms. Catherine Shiroko - SPFO; and**
5. **Mr. M. Mbiti, Ag. Head SCMS**

Basis for Qualified Opinion

279. Budgetary Control

279.1 The financial statements for the year ended 30 June 2016 include a summary of appropriation; recurrent and development combined which reflects an expenditure of Kshs.73,004,859,771.00 against the budget of Kshs.170,322,963,791.00 thus resulting in an under-expenditure of Kshs.97,318,104,020.00 or 57% under-utilization. No satisfactory explanation was provided.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the financial statements for the year ended 30th June 2016 include a summary of appropriation; recurrent and development combined which reflects an expenditure of Kshs.73,004,859,771.00 against the budget of Kshs.170,322,963,791.00 thus resulting in an under-expenditure of Kshs.97,318,104,020.00 or 57% under-utilization.

During the financial year 2015/2016 the underutilization especially on acquisition of assets there was a huge disparity of expenditure and budget on the construction of standard gauge railway. This disparity between the budget and the expenditure was occasioned by disputes on land on the SGR pathway. Some communities along the way resisted the usage of their land and this delayed the land acquisition and subsequently the budget utilization.

Committee Observations and Findings

(i) **The State Department's financial statements recurrent and development appropriation accounts for 2015/2016 revealed an expenditure of Kshs.73,004,859,771.00 against the budget of Kshs.170,322,963,791.00 thus resulting in an under-expenditure of Kshs.97,318,104,020.00 or 57%under-utilization; and**

(ii) **The under-utilization Kshs.97,318,104,020.00 or 57% arose because the disputes on land on the SGR pathway by some communities along the way who resisted the usage of their land and this delayed the land acquisition**

Committee Recommendation

The Cabinet Secretary for the National Treasury should put in place robust management systems in government that ensure there is timely dispute resolution whenever it arises to enable financing of government programmes and projects to avoid cases of under-utilization of the budget.

279.2 Note 26.1 to the financial statements reflects pending accounts payables totaling Kshs.66,010,455.00 which remained outstanding as at 30th June 2016. No satisfactory explanation was provided as to why the bills were not settled despite the knowledge that their non-payment would constrain the budget for 2016/2017 financial year should they be paid in the year. Had the pending bills been paid in the year under review, the under-utilization would have been reduced by Kshs.66,010,455.00.

Submission by Accounting Officer

The Accounting Officer stated that it was true that Note 26.1 to the financial statements reflects pending accounts payables totaling Kshs.66,010,455 which remained outstanding as at 30 June 2016 and that had the pending bills been paid in the year under review, the under-utilization would have been reduced by Kshs.66,010,455.

This is regretted since some of the bills were presented just when the financial year was being concluded and thus there was no sufficient time to process them in the IFMIS. The Department commits this will be avoided to prevent such occurrences.

Committee Observations and Findings

The State Department had pending bills of Kshs. Kshs.66,010,455.00 and that had the pending bills been paid in the year under review, the under-utilization would have been reduced by Kshs.66,010,455.

Committee Recommendation

- **(i) The Accounting Officers should at all cost avoid incurring pending bills in any financial year since any pending bill forms a first charge in the subsequent financial year's budget thereby impeding smooth implementation of the subsequent budget; and**
- **(ii) The Cabinet Secretary for the National Treasury should put in place robust cash flow management systems in government that ensure there is adequate and timely financing of government programmes and projects to avoid incurring costly pending bills attributed to delays/inadequate exchequer releases.**

Prior Year Matters

280. Budgetary Control

Examination of the combined recurrent and development summary statement at page 12 of the financial statements for the 2014/2015 financial year revealed expenditure of Kshs.161,204,337,095.00 against a budget of Kshs.187,742,634,777.00 representing an under-expenditure of Kshs.26,538,297,682.00 or 14% under-utilization.

In addition, Note 19.1 to the financial statements reflected pending bills of Kshs.2,408,879,265.00. Had the pending bills been paid, the under-utilization would have reduced by the Kshs.2,408,879,265.00.

Further, no analysis had been provided to give the details of pending bills as required by Public Sector Accounting Standards Board.

Submission by Accounting Officer

The Accounting Officer stated that it was true that at the time of the audit an Examination of the combined Recurrent and Development appropriation accounts for 2014/2015 revealed an expenditure of Kshs. 161,204,337,095.00 against a budget of Kshs.187,742,634,777.00 representing an under-expenditure of Kshs.26,538,297,682.00 i.e. 14% underutilization.

The revised 2014/2015 financial statements now reveal an expenditure of Kshs. 160,505,527,356.00 against budget of Kshs. 187,742,634,777.00 representing an under-expenditure of 14.5%. The bulk of funding is given from donor which comes with stringent conditions.

Implementations of projects under KAA were affected by operational challenges that included fire outbreak at JKIA that delayed the process of implementation of the projects resulting to low absorption. Also affecting the under-utilization was projects under KPA- the process of recognition of cost in KPA books of accounts. The procedure is, work done has to be certified by the project office in Japan for authentication and returned back for recognition in KPA books of accounts before it is captured as expenditure in ministry's financial statements.

It was true that Note 19.1 reflect pending bills of Kshs.2,408,879,246.85 and had the pending bills been paid the under-utilization would have reduced by the same amount (Kshs.2,408,879,264.85). These pending bills arose because some invoices remained unpaid due to lack of exchequer during the month of June 2015. Additionally some invoices were presented after the invoicing module in the IFMIS was closedand hence could not be processed fully in the IFMIS.However these form the first charge in the subsequent financial year.

Further, it was observed that no analysis had been provided to give the details of the pending bills as required by Kenya Public Sector Accounting Standards board. Upon the revision of the financial statement the pending bills have been restated to of Ksh.420,254,488.95 these being what was paid as a first charge in the financial year 2015/2016, the list of which has been provided to the auditor for verification.

Committee Observations and Findings

- **(i) The State Department's financial statements recurrent and development appropriation accounts for 2014/2015 revealed an expenditure of Kshs. 161,204,337,095.00 against a budget of Kshs.187, 742,634,777.00 representing an under-expenditure of Kshs.26, 538,297,682.00; and**
- **(ii) The State Department had pending bills of Kshs. 2,408,879,246.85 and had the pending bills been paid the under-utilization would have reduced by the same amount (Kshs. 2,408,879,264.85). Upon the revision of the financial statement the pending bills have been restated to of Ksh.420,254,488.95 these being what was paid as a first charge in the financial year 2015/2016**

Committee Recommendation

(i) The Accounting Officers should at all cost avoid incurring pending bills in any financial year since any pending bill forms a first charge in the subsequent financial year's budget thereby impeding smooth implementation of the subsequent budget; and

(ii) The Cabinet Secretary for the National Treasury should put in place robust cash flow management systems in government that ensure there is adequate and timely financing of government programmes and projects to avoid incurring costly pending bills attributed to delays/inadequate exchequer releases.

281. Government Clearing Agency

As reported in the previous year, the State Department reflected expenditure by Government Clearing Agency totaling Kshs.81,725,454.00 for the year ended 30 June 2015. However, the financial statements of the Agency prepared by the National Treasury and submitted for audit reflected receipts of Kshs.1,747,692.00 while the State Department of Transport indicated receipts of Kshs.1,341,835.00 resulting to unexplained variance of Kshs.405, 857.00.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the State Department of Transport reflects expenditure by Government Clearing Agency totaling Ksh.81,725,454.00 for the year ended 30thJune 2015. It is also true that the financial statements of the Agency prepared by the National Treasury and submitted for audit reflects receipts of Kshs.1,747,692.00 while the State Department of Transport indicates receipts of Kshs.1,341,835.00. Note 13 of the financial statement from the National Treasury shows a total receipt of Kshs.1,747,692.00 made of transfers to other Government Agencies (Government Clearing Agency-state department for transport) Kshs.1,341,835.00 and a balance of Kshs.384,857.00 refund to deposit which did not relate to State Department for Transport.

Thus there was no variance between what was reported as having been paid by the National Treasury and what was received by the State Department of Transport.

Committee Observations and Findings

There was no variance between what was reported as having been paid by the National Treasury and what was received by the State Department of Transport since the financial statement from the National Treasury showed a total receipt of Kshs.1, 747,692.00 made of transfers to other Government Agencies (Government Clearing Agency-State Department for transport) Kshs.1, 341,835.00 and a balance of Kshs.384,857.00 refund to deposit which did not relate to State Department for Transport.

282. Unaccounted for Deposits

As reported in the previous year, the financial statements of the Ministry of Transport and Infrastructure for the year ended 30th June 2014 omitted the deposits bank balance of Kshs.558, 884,792.00 held in Central Bank Account No. 1000182188.

Re-examination of the deposits balance during the year under review revealed that, out of the bank balance of Kshs.558,884,792.00 reflected in a reconciliation dated 8thSeptember, 2014, the State Department of Transport received Kshs.101,772,644.00 and the State Department of Infrastructure received the balance amounting Kshs.457,112,149.00. However, and although the State Department of Transport received Kshs.101,772,644.00 only Kshs.63,266,317.00 was reflected in the financial statements leaving a balance of Kshs.38,506,327.00 which was explained to have been transferred to the National Treasury in unclear circumstances.

Submission by Accounting Officer

The Accounting Officer stated that it was also true that as reported in the previous year, the financial statements of Ministry Transport and Infrastructure for the year ended 30thJune 2014 omitted the statement of deposits and a deposits bank balance of Kshs.558,884,792.25 held in Central Bank Account No. 1000182188.

You indicated that a review of the deposits balance during the year revealed that, out of the bank balance of Kshs.558,884,792.25 and as per reconciliation dated 8thSeptember 2014, the State Department of Transport received Kshs.101,772,643.55 and the state department for infrastructure received the balance of Kshs.457,112,148.70.

However at the end of the financial year the state Department for Transport was only able to analyse and support Kshs.63,266,317.05. It is noted that the state department for transport received Kshs.63,266,317.05 in its deposit bank account as opposed to Kshs.101,772,643.55 indicated herein. A copy of the deposit bank Account No. 1000212551 statement showing the opening balance of Kshs.63,266,317.05 is herein attached also a letter from the National Treasury instructing the CBK to transfer the balance of Ksh.38,506,326.50 and close the account; a letter from CBK confirming transfer of Ksh.38,506,326.50 to the exchequer and an Exchequer account bank statement extract reflecting receipt of Ksh.38,506,326.50 are attached.

Committee Observations and Findings

The Accounting Officer failed to ensure that the entity keeps complete financial and accounting records that are reconciled and supported by the necessary documents including payment vouchers in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

Committee Recommendation

The Accounting Officer should be held liable for failure to ensure that the entity kept complete financial and accounting records that are supported by necessary documents including payment vouchers compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2) of the PFM Act 2012.

RAILWAY DEVELOPMENT LEVY FUND

Basis for Qualified Opinion

283. Variances between Railway Development Levy Fund (RDLF) and Kenya Railways Corporation figures in the financial statements.

The Fund's statement of receipts and payments for the year ended 30thJune 2016 reflects payments for acquisition of non-financial assets totaling Kshs.4,320,984,173.00 out of which payments totaling Kshs.393,443,836.00 made up of Kshs.205,363,955.00, Kshs.161,748,698.00 and Kshs.26,331,183.00 as shown in Note 5 to the financial statements were transferred to Kenya Railways Corporation during the year under review to pay consultancy services relating to Standard Gauge Railway Project. However, the financial statements of Kenya Railway Corporation for the year ended 30 June 2016 reflect work-in-progress amount of Kshs.453,201,881.00 as having been paid during the year thus resulting in a variance of Kshs.59,758,045.00 which has not been explained.

Submission by Accounting Officer

The Accounting Officer stated that the Funds statement of receipts and payments for the year ended 30th June 2016 reflects payments for acquisition of Non-Financial assets totaling to Kshs.4, 320,984,173.00 out of which payments totaling to Kshs.393,443,836.00 made up of Kshs 205,363,955.00, Kshs.161,748,698.00 and Kshs.26,331,183.00 were for consultancy services relating to Mombasa -Nairobi SGR.

The difference of Kshs.59,758,045.00 was as a result of Kenya Railway Corporation using accrual basis of accounting (taking the invoice amount less tax) to recognize the actual work done, whereas RDLF-operation account reported the actual payment done.

These three payments were made from the headquarters directly to the consultant as indicated in Notes 5 of the Financial Statements (Acquisition of non-financial assets) as opposed to being transfer to Kenya RailwayCorporation.

Committee Observations and Findings

The statement of receipts and payment prepared by the Fund Administrator has given the full disclosure showing the total receipts as per section 117 A of the Customs and Excise Act of Kshs.18,740,340,683.35 and transfers to State Department for Transport of Ksh. 19,252,240,843.45.

MECHANICAL AND TRANSPORT FUND

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this fund.

Other Matter

284. Supply of Computers and Related Equipment

As previously reported, Kenya National Highways Authority paid an amount of Kshs.25,564,350.00 to a firm for a pending bill relating to 2013/2014 financial year. The supplier was competitively awarded the contract for the supply of the three (3) months Rack Mount type computer servers; ninety four (94) Standard Desktop Computers; twelve (12) Touch Smart Desktop Computers; eight (8) Laptop Computers and forty six (46) Integrated Service Routers on 13 June 2103 at a tender sum of Kshs.25,564,350.00. The items were purchased for Mechanical and Transport Fund under Northern Corridor Transport Improvement Project, IDA Credit Nos. 3930 - KE and 4571- KE. The supplier is said to have delivered the goods to Mechanical and Transport Fund of Ministry of Transport and Infrastructure on 19 November 2013 vide delivery note No. 1063. The Inspection and Acceptance committee inspected and accepted only eight (8) laptop computers and nineteen (19) Integrated service routers all valued at Kshs.2,975,150.00. It is reported that the rest of the goods though delivered to the Fund were stolen before they could be inspected by the inspection and acceptance committee.

Despite the forgoing and although the goods received notes were not issued, Kenya National Highways Authority paid for all the goods vide Payment Voucher Number 17690 dated 23 July 2014 for Kshs.22,589,200.00.

In the circumstances, value for money was not obtained from the expenditure of Kshs.22,589,200.00. A review of the issue during the year under audit confirmed that the same has not been resolved.

Submission by Accounting Officer

The Accounting Officer stated that as previously reported, Kenya National Highways Authority paid Kshs.25,564,350.00 vide payment voucher no. 17690 dated 23 July 2014 to M/s Intermass Technologies (EA) Limited for a pending bill relating to 2013/2014 financial year. The supplier was competitively awarded the contract for the supply of three (3) months Rack-mount type computer servers; ninety Four (94) Standard Desktop Computers; Twelve (12) touch smart Desktop Computer; eight (8) Laptop computers and Forty six (46) Integrated Service Routers on 13th June 2013 at their tender sum of Kshs.25,564,350.00 which were purchased for Mechanical and Transport fund under Northern corridor Transport improvement project, IDA Credit Nos. 3930-KE and 4571-KE.

The accounting officer stated that it was true the goods were delivered to Mechanical and Transport Fund of the Ministry of Transport and Infrastructure on 19 November 2013 vide delivery note No. 1063. The inspection and Acceptance committee inspected and accepted only eight (8) laptop computers and Nineteen (19) Integrated service routers all valued at Kshs.2,975,150.00. It is further reported that the rest of the goods though delivered were misappropriated before they could be inspected by the inspection and acceptance committee.

This is to state that the goods were received in the morning of 19th November, 2013 in Mechanical and Transport Fund warehouse stores vide the signed delivery note No.1063.

However on the weekend of 24th November, 2013 between 10.20am and 11.30am there was a break-in in the stores where the Computers accessories and other stores were stolen. The same was reported to the Industrial Area Police Station, by the security officer on the same day. From the CCTV footage it was apparent the guards from the contracted security firm (M/s Secure Homes Ltd.) facilitated the whole theft by opening the gates for the criminals to enter with a station wagon vehicle and later a lorry. The C.I.D used this information and managed to arrest and charge one of the guards in Makadara Law Courts. According to the CID they have not been able to apprehend the others.

Despite the forgoing and although the goods received, Kenya National Highways Authority paid for all the goods vide payment voucher Number 17690 dated 23.07.2014 for Kshs.22,589,200.00.

The CIDs were also able to trace and impound the vehicle involved in the theft and subsequently charged the owner with the offence. The case is also in the court as per the attached documents The Attorney General has also taken up the matter on behalf of the Ministry as per letter No. MOTI/1A.42.01 Vol. 6 dated 29th March, 2016.

Committee Observations and Findings

(i) The Kenya National Highways Authority paid Kshs. 25,564,350.00 on 23rd July 2014 for the supply of three (3) months Rack-mount type computer servers; ninety-four (94) Standard Desktop Computers; Twelve (12) touch smart Desktop Computer; eight (8) Laptop computers and forty-six (46) Integrated Service Routers on 13th June 2013;

(ii) The Inspection and Acceptance Committee inspected and accepted only eight (8) laptop computers and Nineteen (19) Integrated service routers all valued at Kshs. 2,975,150.00 since the rest of the items were stolen on the weekend of 24th November, 2013 before they could be inspected by the inspection and acceptance committee; and

(iii)The matter was duly reported to the police and the DCI is handling the case which is now in court. The Attorney General has also taken up the matter on behalf of the Ministry as per letter No. MOTI/1A.42.01 Vol. 6 dated 29th March, 2016.

Committee Observations and Findings

(i) The Accounting Officers should ensure that government properties including assets and buildings under their custody are properly protected to avoid such cases of negligence and collusions leading to loss of public funds; and

(ii) All Accounting Officers should within three (3) months of adoption of this report ensure that all the contracted services including security services engaged by their entities provide indemnity cover for negligence of their employees as a prerequisite condition before signing any service contract with the entity.

KENYA TRANSPORT SECTOR SUPPORT PROJECT (IDA CREDIT NO.4926/5410KE COMPONENT B1 - SUPPORT TO MINISTRY OF ROADS)

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this Project.

NATIONAL URBAN TRANSPORT IMPROVEMENT PROJECT IDA CREDIT NO.5140 (MOT COMPONENT)

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of the Project.

EAST AFRICA TRADE AND TRANSPORT FACILITATION PROJECT IDA CREDIT NO.4148 (MOT COMPONENT)

284. Special Account Statement

Basis for Qualified Opinion

The Special Account statement of East Africa Trade and Transport Facilitation Project (MOT component) IDA CR. NO.4148-KE for the year ended 30thJune 2016 - State Department of Transport shows that during the year under review, USD22,488.92.00 (equivalent of Kshs.2,299,492.00) was withdrawn from the special account to finance project activities. However, the total amount of Kshs.2,299,492.00 was not reflected in the Project's financial statements for the year ended 30thJune 2016.

The management has explained that these funds were received in total but used and accounted for under East Africa Trade and Transport Facilitation Project IDA Credit No. 4148KE and 4977KE (MOT/KRC Component) in the same Department of Transport. However, the reallocation was neither sanctioned by Treasury nor supported by the Financing Agreement.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the special account statement showed an amount of USD22,488.92 project financial statement (equivalent to Kshs.2,299,492.00) was withdrawn to finance project activities during the financial year ended 30th June 2016. However, this amounts were not reflected in the project's financial statements for the year under review.

These funds (Kshs.2,299,492.00) had erroneously been transferred to East African Trade and Transport Facilitation Project MOT/KRC Component bank account No.0108076455801 instead of East African Trade and Transport Facilitation Project MOT Component bank account No.0108076455800.However when the a normally was realized it was corrected by transferring back the funds to the correct bank account No.0108076455800 as per attached supporting documents.

Committee Observation and Finding

The Committee heard from the Auditor General that the matter was resolved after verification of the financial statements.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

EAST AFRICA TRADE AND TRANSPORT FACILITATION PROJECT (IDA CREDIT NO.4148KE AND 4977KE - MOT/KRC COMPONENT)

Basis for Qualified Opinion

285. Special Account Statement

The special account statement shows an amount of USD 107.62 (equivalent of Kshs.11,000.00) was withdrawn from the account to finance project activities. However, the project financial statements for the year ended 30 June 2016 shows a total amount of Kshs.2,310,492.00 received to finance project activities. The variance of Kshs.2,299,492.00 has not been reconciled.

The management has explained that the extra funding of Kshs.2,299,492.00 was meant for East Africa Trade and Transport Facilitation Project (IDA 4148KE (MOT Component) but erroneously expended and accounted for in this project. However, the reallocation is neither sanctioned by Treasury nor supported by the Financing Agreement.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the special account statement showed an amount of USD project financial statements for t equivalent to Kshs.11,000.00 as having been withdrawn to finance project activities and the project financial statements for the year ended 30th June 2016 show a total amount of Kshs.2,310,492.00 received to finance project activities. The variance of Kshs.2,299,492.00 had not been reconciled

These funds (Kshs.2,299,492.00) had erroneously been transferred to East African Trade and Transport Facilitation Project MOT/KRC Component bank account No.0108076455801 instead of East African Trade and Transport Facilitation Project MOT Component bank account No.0108076455800.However when the anomaly was realized it was corrected by transferring back the funds to the correct bank account No.0108076455800.

Committee Observation and Finding

The Committee heard from the Auditor General that the matter was resolved after verification of the financial statements.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

KENYA TRANSPORT SECTOR SUPPORT PROJECT IDA CREDIT NO.4926/5410KE (MOT COMPONENT)

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this Project.

Cash equivalents' balance of Kshs.80,017,247 included in the statement of financial assets.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Manual records and IFMIS Cashbook reflected varying figures as indicated here below;

CASHBOOK TYPE	MANUAL	IFMIS	DIFFERENCE
A: DEVELOPMENT			
Bank	35,259,061.83	(7,607,743,290.20)	7,643,002,352.03
Cash	-	17,193,983,524.55	(17,193,983,524.55)
B: RECURRENT			
Bank	57,482,519	(14,182,676,124.40)	14,240,158,643.40
Cash	-	26,125,536,297.05	(26,125,536,297.05)
C: DEPOSIT			
Bank	7,701,814.70	299,455,252.35	(291,753,437.65)
Cash	-	15,419,348.55	(15,419,348.55)

We wish to report that IFMIS system has been having challenges but Treasury is rectifying them. Manual reconciliations between the Cashbook and the bank statement was updated accordingly and the auto reconciliation in IFMIS is ongoing to clear the variances.

Committee Observations and Findings

(iii) **The explanation of the Accounting Officer that manual reconciliations between the Cashbook and the bank statement have been updated and the auto reconciliation in IFMIS is ongoing to clear the variances was reasonable. However, the matter remains unresolved insofar as the same have not been submitted for audit verification and therefore, it has not been possible to confirm the accuracy and validity of cash and cash equivalents' balance of Kshs.80,017,247 included in the statement of financial assets.**

(iv) **The Committee marked the matter as unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2)(k) of the PFM Act 2012.

SUBMISSION BY MR. JOSEPH NDUVA MULI, EBS

Mr. Joseph Nduva Muli the former Accounting Officer State Department of Transport appeared before the Committee accompanied by the following officer:

1. Ms. Julia Wanjiru Wachira - Advocate

and submitted as follows:

Paragraph 378 (Inaccuracies in the Financial Statements)

In reference to the above stated paragraph, it is observed that the State Department of Transport did not submit complete financial accounting records that are reconciled and devoid of anomalies within the time prescribed in Section 68 (2) of the Public Funds Management Act, 2012 and pursuant to provisions of Article 229 of the Constitution.

He reported that that he stepped aside from office on 28th March 2015 and immediately ceased to be an accounting officer following a directive from my appointing authority and therefore I was not in a position to or required to provide any input or undertake any duties of an accounting officer from this date.

Further, at no time was he formally requested by the officer who took over the mandate to provide any information or clarification regarding the issues raised in paragraph 378.

He therefore should not be held responsible for failure of the State Department of Transport to keep complete financial accounting records for the financial year ended June 2015 as he was out of office seven (7) months before the State Department of Transports was required to submit complete financial accounting records as specified by the Public Funds Management Act Section 68(2).

Paragraph 379 (Unsupported Payment)

The Paragraph states that the Accounting Officer failed to ensure that the State Department of Transport kept complete financial and accounting records supported by the necessary documents including payment vouchers in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records were not presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2)(k) of the PFM Act 2012.

He reiterated that he left the office on 28th March, 2015 and immediately ceased to be an Accounting Officer following a directive from the appointing authority and therefore was not in a position to undertake any duties of an Accounting Officer from that date. Therefore, he was not in office at the time when the conclusion of the financial and accounting records on the State Department of Transport was being undertaken between end of June 2015 and end of September 2015 as required under section 68(2) of the PMF Act, 2015.

At the time the Auditor General was examining the accounts of the State Department of Transport after September 2015, he was not in office. That notwithstanding, during the preparation of the financial accounting records for the State Department of Transport for the financial year ended 2015, he was never formally called upon to assist or to provide any information necessary for the completion of the financial and accounting records of the state Department of Transport.

At the time the Auditor General was undertaking the audit of the financial records of the State Department of Transport, he was never formally called upon to assist or provide clarification on information regarding any queries that the Auditor General may have had. Therefore, he should not be held responsible for failure of the State Department of Transport to provide the necessary documents as stated in Paragraph 379 of the Report as he was out of office seven (7) months before the State Department of Transport was required to submit complete financial accounting records as specified by the Public Funds Management Act Section 68(2).

Request to the Committee

1. Regarding Paragraphs 378.1.1 & 378.1.2, the Committee's recommendation that he failed as an accounting officer to keep complete financial and accounting records for the year ended 2015 be amended to reflect that he was not the accounting officer and therefore not responsible.

2. In relation to paragraph 379 (1) the Committee's recommendation that he failed to ensure that the State Department of Transport kept complete financial and accounting records that

are supported by necessary documents for the year ended June 2015 be amended to reflect that I was not the accounting officer and therefore not responsible.

3. The Committee's recommendation in Paragraph 379 (2) that he consistently demonstrated inability to manage public finance in line with provisions of Article 201 of the Constitution of Kenya and section 68 (2) of the PFM Act, 2012 be expunged from the record for lack of any basis, justification and/or evidence to support such a finding and recommendation.

4. The recommendation that the Cabinet Secretary, National treasury should never at any time designate him as an accounting officer for any State Department or government agency be expunged from the record for lack of any basis, justification and/or evidence to support such a finding and recommendation.

5. The recommendation that if he is an accounting officer in any State Department or agency such an appointment be revoked within 3 months on adoption of the Report is expunged from the record for lack of any basis, justification and/or evidence to support such a finding and recommendation.

Committee Observations and Findings

(i) Mr. Nduva was not in office at the time when the conclusion of the financial and accounting records on the State Department of Transport were being undertaken between end of June 2015 and end of September 2015 as required under section 68(2) of the PMF Act, 2015.

(ii) During the preparation of the financial accounting records for the State Department of Transport for the financial year ended 2015, he was never formally called upon to assist or to provide any information necessary for the completion of the financial and accounting records of the state Department of Transport.

Committee Recommendations

The Committee resolved to recommend that all adverse findings and recommendations made under the *REPORT ON THE EXAMINATION OF THE REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS FOR THE NATIONAL GOVERNMENT FOR THE FINANCIAL YEAR 2014/2015* against Mr. Nduva Muli be expunged.

13.0. DEPARTMENT FOR ENVIRONMENT AND NATURAL RESOURCES

FINANCIAL STATEMENTS FOR VOTE 1101

Dr. Ibrahim Mohammed, the accounting officer for Vote 1101 State Department of Environment and Natural Resources appeared before the Committee on Monday, 18th March, 2019 to adduce evidence on the audited Financial Statements of Vote 1101 the State Department of Environment and Natural Resources for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following officials:

2. **Mr. Joel M. Kitili- Senior Accountant**
3. **Mr. Joseph Mutuma -Senior Chief Finance Officer**
4. **Mr. Joshua Galoro - Principle Accountant- LVEMP**
5. **Mr. M. F. Gitari -Director Human Resource Management**
6. **Mr. Henry Obino -Director of Administration**
7. **Mr. Erick F. N Akotsi-Director URR**
8. **Mr. Samuel Mwangi -Deputy Director**
9. **Ms. Zipporah Toroitich-D. Director P & E- KFS**
10. **Ms. Francisca Owuor - National Project Coordinator- LVEMP**
11. **Eng. Isaac Ngugi-Specialist**
12. **Mr. Richard Yator - AD/ACMS**
13. **Mr. Peter Mutai -CMT**
14. **Mr. Donnie Muyera-PSCMO**
15. **Mr. Isaac Kangile -D/ HOF KMD**
16. **Mr. James Wanaina - A.C.C.F- KFS**
17. **Ms. Agnes C. Yobteric-Director PPSI**

Basis for Qualified Opinion

286. Cash and Cash Equivalents

The cash and cash equivalents' balance stood at Kshs. 139,322,247 as at 30 June 2016. However, examination of the bank reconciliation statement revealed the following unexplained reconciling items:

286.1 Recurrent Account

The bank reconciliation for the recurrent cash book reflects payments in the cash book not yet presented in the bank of Kshs. 142,029,833 out of which payments of Kshs. 30,423 are stale cheques. Further, the bank reconciliation reflects Kshs. 3,038,786 being payments in bank not posted in cash book. It has not been explained how the payments went through in the bank without first being recorded in the cash book. Further, the bank reconciliation reflects receipts in cash book not yet recorded in the bank of Kshs. 129,519,569. No explanation has been provided on how the receipts were received in the cash book before they were recorded in the bank.

Further, management has not explained the receipts in bank not recorded in cash book amounting to Kshs. 3,417,102 and why they had not been posted to the cash book.

Submission by Accounting Officer

The accounting officer stated that it was true that the Bank Reconciliation for the Recurrent Cash Book reflects payment in the cash book not yet presented in the Bank of Kshs. 142,029,833 out of which payments of Kshs. 30,423 are stale cheques. Further, it is true that the bank reconciliation reflects Kshs. 3,038,786 being payments in the Bank not posted in the Cash Book. It was also true that the bank reconciliation reflects receipts in cash book not yet recorded in the bank of Ksh. 129,519,569.

The said payments and receipts have since been posted in the respective cash book accordingly. The cheques have since been cleared and availed for perusal and verification.

Committee Observations and Findings

The Bank Reconciliation for the Recurrent Cash Book reflected payment in the cash book not yet presented in the Bank of Kshs. 142,029,833 out of which payments of Kshs. 30,423 were stale cheques. It also reflected Kshs. 3,038,786 being payments in the Bank not posted in the Cash Book and receipts in cash book not yet recorded in the bank of Ksh. 129,519,569. The said payments and receipts have since been posted in the respective cash book accordingly. The cheques have since been cleared and availed for perusal and verification.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

286.2 Development Account

286.2.1 Unpresented and Unrecorded Cheques

The bank reconciliation statement for the development account cash book reflects as at 30 June 2016 payments in the cash book not yet presented in the bank of Kshs.1,269,237,524 all of which were paid in the month of June 2016. This is an indication that most of the transactions were done towards the end of the accounting period. The bank reconciliation further reflects payments totaling Kshs. 902,000, being payments in the bank not posted in the cash book. Management has not explained how the payments went through in the bank without first being recorded in the cash book.

Submission by Accounting Officer

The accounting officer stated that it was true that the Bank Reconciliation Statement for the Development account Cash Book reflected as at 30th June 2016 payments in the cash book not yet presented in the Bank of Kshs. 1,269,237,524. It is also true that the bank reconciliation further reflects payments totaling Ksh. 902,000, being payments in the bank not posted in the cash book

The amount of Ksh. 1,269,237,524 has since been cleared in the subsequent month. With regard to the amount of Kshs. 902,000, we would also like to confirm that the same has since been cleared as reflected in the Bank Statement.

Committee Observations and Findings

(i) **The Bank Reconciliation Statement for the Development account Cash Book reflected as at 30th June 2016 payments in the cash book not yet presented in the Bank of Kshs. 1,269,237,524. It is also reflected payments totaling Ksh. 902,000, being payments in the bank not posted in the cash book;**

(ii) **The amount of Kshs. 1,269,237,524 and Kshs. 902,000 has since been cleared in the subsequent month.**

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

286.2.2. Unbanked Receipts

Management has also not explained the failure to bank receipts in cash book not yet recorded in the bank of Kshs. 1,039,598,000 as at 30 June 2016.

Submission by Accounting Officer

The accounting officer stated that it was true that there were Bank receipts in the Cash Book not yet recorded in the Bank of Kshs. 1,039,598,000 as at 30th June, 2016. The bank receipts have since been captured in the Bank Statements. The Bank Statements have since been availed to the auditors for verification.

Committee Observations and Findings

There was Bank receipts in the Cash Book not yet recorded in the Bank of Kshs. 1,039,598,000 as at 30th June, 2016. The bank receipts have since been captured in the Bank Statements. The Bank Statements have since been availed to the auditors for verification.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

286.2.3 Direct Bank Receipts not posted in Cash book

Management has not explained receipts in bank not recorded in cash book amounting to Kshs. 16,105,840 and why they have not been posted to the cash book.

Submission by Accounting Officer

The accounting officer stated that it was true that there were receipts in bank not recorded in cash book amounting to Ksh. 16,105,840. The said Direct Bank Receipts of Ksh. 16,105,840 have since been recorded in the Cash Book which has been availed for audit verification

Committee Observations and Findings

There were receipts in bank not recorded in cash book amounting to Ksh. 16,105,840. The said Direct Bank Receipts of Ksh. 16,105,840 have since been recorded in the Cash Book which has been availed for audit verification

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

286.3 Omitted Project Bank Account Balances

The cash and cash equivalents' balance of Kshs.139,322,247 as at 30 June 2016 excludes project bank balances amounting to Kshs.25,508,170. The excluded balances were for the following programme accounts:

No.	Project	Amount Kshs.
1	Kenya Agri. Productivity and Sustainable Land Management	19,971,216
2	Natural Resource Management Program	313,654
3	Kenya National Implementation Plan	544,661
4	Global Environment Facility Regional Power Trade Conversion	4,678,639
Total		**25,508,170**

Management has not explained the understatement of the cash and cash equivalents balance by Kshs. 25,508,170 as at 30 June 2016. In view of the foregoing, the accuracy and completeness of the cash and cash equivalents' balance of Kshs. 139,322,247 could not be ascertained.

Submission by Accounting Officer

It was true that the Cash and Cash Equivalents balance of Kshs.139,322,247 as at 30th June, 2016 excludes project Bank balances amounting to Kshs.25,508,170 as follows:-

No	Project	Amount (Kshs)
1.	Kenya Agri. Productivity and Sustainable Land Management	19,971,216
2.	Natural Resource Management Program	313,654
3.	Kenya National Implementation Plan	544,661
4.	Global Environment Facility Regional Power Trade Conversion	4,678,216
	Total	**25,508,170**

The accounting officer stated that:

i. **Kenya Agri Productivity and Sustainable Level Management - Kshs.19,971,216**

With regard to this project, we wish to point out that the same was accounted for in the Ministry for Agriculture where the vote was domiciled. The Ministry was funded through a sub-AIE which was to be accounted for at the Ministry for Agriculture.

ii. **Natural Resources Management Programme**

With regard to Project we would like to point out that the Project (Donor) was independent and self-reporting and therefore the amounts were inadvertently omitted from the Financial Statements.

iii. **Kenya Natural Implementation**

The project ended in 2013/2014 financial year.

iv. **Plan Global Environmental Facility Regional Power Trade Conversion.**

With regard to this project I wish to state that the project moved with department of Regional Development when the Ministry was split and therefore could not be included.

Committee Observations and Findings

The Cash and Cash Equivalents balance of Kshs. 139,322,247 as at 30th June, 2016 excluded project Bank balances amounting to Kshs. 25,508,170.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

287. Account Receivables

The account receivables balance increased from Kshs. 4,269,759 as at 30 June 2015 to Kshs. 63,945,569 as at 30 June 2016. However, the balance includes a salary advance of Kshs. 409,123 with a supporting schedule for a balance of Kshs. 692,419 resulting in an unexplained difference of Kshs. 283,296. Similarly, Government imprest balance of Kshs.4,604,988 as per the financial statements is at variance with the supporting schedule balance of Kshs.10,610,415 resulting in an unexplained difference of Kshs.6,005,427. Further, imprests amounting to Kshs. 5,983,428 were not surrendered within the stipulated time as required under the Public Finance Management Act, 2012. In addition, the balance of Kshs. 58,931,458 shown as district suspense was not supported.

Consequently, it has not been possible to ascertain the accuracy, completeness and recoverability of the accounts receivables balance of Kshs. 63,945,569 as at 30 June 2016.

Submission by Accounting Officer

The accounting officer stated that it was true that the Account Receivables balance increased from 4,269,759 as at 30thJune, 2015 to Kshs. 63,945,569 as at 30th June, 2016. It is also true that the balance includes a salary advance of Ksh. 409,123 with a supporting schedule for a balance of Ksh. 692,419 resulting in a difference of Ksh. 283,296. It is further true that Government imprest balance of Kshs.4,604,988 as per the financial statements was at variance with the supporting schedule balance of Kshs.10,610,415 resulting in a difference of Kshs.6,005,427. It is also true that imprests amounting to Kshs. 5,983,428 were not surrendered within the stipulated time as required under the Public Finance Management Act, 2012. It is true that the balance of Kshs.58,931,458 shown as district suspense was not supported.

With regard to the discrepancies in salary advances and imprests, we wish to confirm that the differences have since been reconciled. As regards to delays in surrenders of imprests, measures have been put in place to ensure that imprests are surrendered as stipulated in the Public Finance Management Act, 2012.

With regard to the amount of Kshs. 58,931,458 in respect of District Suspense, we would like to point out that an analysis has since been provided and the same has been cleared.

Committee Observations and Findings

- **(i) The Account Receivables balance increased from 4,269,759 as at 30th June, 2015 to Kshs. 63,945,569 as at 30th June, 2016. The balance included a salary advance of Ksh. 409,123 with a supporting schedule for a balance of Ksh. 692,419 resulting in a difference of Ksh. 283,296; and**
- **(ii) TheGovernment imprest balance of Kshs.4,604,988 as per the financial statements was at variance with the supporting schedule balance of Kshs.10,610,415 resulting in a difference of Kshs.6,005,427. Further, an imprests amounting to Kshs. 5,983,428 were not surrendered within the stipulated time as required under the PFM Act, 2012; and**
- **(iii)The Accounting Officer failed to recover outstanding imprest within 7 days pursuant to the provisions of Regulation 93(7) of the PFM (National Government) Regulation 2015.**

Committee Recommendations

The Accounting Officer must at all times ensure that imprest are recovered within the stipulated time as provided for in Regulation 93 of the PFM (National Government) Regulations 2015

288. Fixed Assets

288.1 Summary Fixed Assets Register

Management did not attach to the financial statements presented for audit, a summary of fixed assets register as required under the International Public Sector Accounting Standards (IPSAS) template prescribed by the Public Sector Accounting Standards Board under which the financial statements are prepared. Therefore, the financial statements do not comply with the IPSAS in regard to reporting format and disclosure of fixed assets.

Submission by Accounting Officer

The accounting officer stated that it was true that a summary of Fixed Assets Register was not attached to the financial statements presented for audit contrary to International Public Sector Accounting Standards (IPSAS) requirements.

The Ministry has since provided an Asset Register and we are in the process of updating the same with a view to costing the Assets to comply with the International Public Sector Accounting Standards (IPSAS) reporting format and disclosure of Fixed Assets.

Committee Observations and Findings

The Accounting Officer did not attach to the financial statements presented for audit, a summary of fixed assets register as required under the International Public Sector

Accounting Standards (IPSAS) template prescribed by the Public Sector Accounting Standards Board

Committee Recommendations

The Accounting Officers should ensure they maintain a Fixed Asset Register pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the Accounting should within three (3) months of adoption of this report embark on preparing complete assets register which should be availed to the Auditor-General for audit review.

288.2 Acquisition of Assets

The acquisition of assets' balance of Kshs.2,580,739,731 as at 30 June 2016 includes purchase of assets, includingland(Kshs.53,032,000), specialized plant and equipment (Kshs.473,835,834) and civil works (Kshs.756,810,898). However, management has not provided details relating to class of asset, value and location, for audit verification. As a result, the propriety of expenditure amounting to Kshs. 2,580,739,731 and the existence of the assets as at 30 June 2016 could not confirmed. Further, no confirmation has been obtained that the assets are managed and utilized to enhance service delivery.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Acquisition of Assets balance of Kshs.2,580,739,731 as at 30th June includes purchase of Assets, including land (Kshs.53,032,000) specialized Plant and Equipment (Kshs.473,835,834) and civil works (Kshs.756,810,898).

These Assets are spread all over our Meteorological Regional Offices which can be inspected as and when required. The assets have not been valued but the Ministry is awaiting audience from the National Treasury to give guidelines on valuation. For the use of Assets, we wish to confirm that those Assets are managed and utilised to achieve service delivery in the Ministry.

Committee Observations and Findings

(i) **The Acquisition of Assets balance of Kshs.2,580,739,731 as at 30thJune includes purchase of Assets, including land (Kshs.53,032,000) specialized Plant and Equipment (Kshs.473,835,834) and civil works (Kshs.756,810,898); and**

(ii) **The assets have not been valued but the Ministry is awaiting audience from the National Treasury to give guidelines on valuation.**

Committee Recommendations

Within three (3) months of adoption of this report, the Cabinet Secretary, National Treasury should embark on development of a framework to guide government entities on asset classification and valuation

289. Other Revenues

289.1 Appropriations-in-Aid (AIA)

Included in the receipts from the Ministry balance of Kshs.16,077,551,281 as at 30 June 2016 are other revenues of Kshs.3,597,421,179 being Appropriations in Aid (A-I-A) collected by parastatals under the Ministry, including National Environment Management Authority (NEMA) and Kenya Wildlife Service (KWS) but no corresponding expenditure was recorded against the same, contrary to government accounting policies.

Further, it has not been explained how the A-in-A from other organizations were included in the Ministry's financial statements when the Ministry's' accounts are not consolidated financial statements.

Under the circumstances, it has not been possible to confirm the accuracy and completeness of other revenues of Kshs. 3,597,179 included in the Ministry's statement of receipts and payments as at June 2016.

Submission by Accounting Officer

The accounting officer stated that it wastrue that included in the receipts from the Ministry balance of Kshs. 16,077,551.281 as at 30th June, 2016 are other revenues of Kshs. 3,597,421,179 being Appropriations in Aid (A-I-A) collected by parastatals under the Ministry, including National Environment Management Authority (NEMA) and Kenya Wildlife Service (KWS) but no corresponding expenditure was recorded against the same.

With regard to AIA collected by National Environment Management Authority (NEMA) and Kenya Wildlife Service (KWS), we wish to point out that the said AIA was being directly controlled by these Parastatals which are self-reporting and independently audited.

The Ministry is in the process of liaising with the National Treasury with a view to ensure that this AIA is accounted for at the Ministry since the budgetary provisions includes the AIA

Committee Observations and Findings

(i) **Included in the receipts from the Ministry balance of Kshs. 16,077,551.281 as at 30th June, 2016 are other revenues of Kshs. 3,597,421,179 being Appropriations in Aid (A-I-A) collected by parastatals under the Ministry, including National Environment Management Authority (NEMA) and Kenya Wildlife Service (KWS);**

(ii) **The AIA collected by NEMA and KWS was being directly controlled by these Parastatals which are self-reporting and independently audited. The Ministry is in the process of liaising with the National Treasury with a view to ensure that this AIA is accounted for at the Ministry.**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

289.2 Proceeds from Sale of Assets

Also included in the receipts from the Ministry balance of Kshs.16,077,551,281 as at 30 June 2016 are proceeds from sale of assets of Kshs.2,906,162,888 being Appropriations- in-Aid collected by parastatals under the Ministry including Kenya Forest Service, (KFS) and Kenya Forest Research Institute (KEFRI). There is no corresponding expenditure on these receipts contrary to accounting policies.

Further, it has not been explained how the A-in-A from the organizations were included in the Ministry's financial statements when the Ministry accounts are not consolidated financial statements.

Submission by Accounting Officer

The accounting officer stated that it was true that included in the receipts from the Ministry balance of Kshs.16,077,551.281 as at 30th June, 2016 are proceeds from sale of Assets of

Kshs.2,906,162,888 being AIA collected by Parastatals under the Ministry which include Kenya Forest Service (KFS) and Kenya Forest Research Institute (KEFRI). Appropriations-in-Aid collected was used to offset expenditure whose documents were availed for audit review. Consequently, the AIA collected was included in the Ministry's Financial Statements due to the fact that the same was in the budgetary allocation of the Ministry by then

Committee Observations and Findings

The receipts from the Ministry balance of Kshs.16,077,551.281 as at 30th June, 2016 are proceeds from sale of Assets of Kshs.2,906,162,888 being AIA collected by Parastatals under the Ministry which include Kenya Forest Service (KFS) and Kenya Forest Research Institute (KEFRI).

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

290. Pending Bills

Pending bills amounting to Kshs. 186,596,604 chargeable to the State Department recurrent and development votes during the year under review were not paid in the year 2015/2016 but were instead carried forward to 2016/2017.

Had those bills been paid and expenditure charged, the statement of receipts and payments would have reflected a deficit of Kshs. 46,927,624. Failure to settle bills during the year they arise distorts the financial statements for that year and adversely affects the provisions of the subsequent year to which they have to be charged.

Further, pending bills amounting to Kshs. 186,596,604 as at 30 June 2016 were not supported with the relevant documents such as invoices, Local Purchase Orders, and or delivery Notes.

In the circumstances, it has not been possible to ascertain the correctness and validity of the pending bills' balance of Kshs. 186,596,604.

Submission by Accounting Officer

The accounting officer stated that it was true that pending bills amounting to Kshs. 186,596,604 chargeable to the State Department recurrent and development votes during the year under review were not paid in the year 2015/2016 but were instead carried forward to 2016/2017.

It was also true that had those bills been paid and expenditure charged, the statement of receipts and payments would have reflected a deficit of Kshs. 46,927,624.

The breakdown of these bills is Kshs. 160,011,615 charged to Development vote and Kshs. 26,584,989 being charged to recurrent vote. These pending bills were occasioned by:

i. Rationalized budgetary provisions
ii. Lack of adequate exchequer issues

We also wish to state that the pending bills were supported with the relevant documents such as invoices, Local Purchase Orders, and or delivery notes.

Committee Observations and Findings

Pending bills amounting to Kshs. 186,596,604 chargeable to the State Department recurrent and development votes during the year under review were not paid in the year 2015/2016 but were instead carried forward to 2016/2017.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore, the matter is resolved.

291. Employee Costs

291.1 Unsupported Arrears

During the year under review, the Ministry incurred employee costs of Kshs.1, 351, 320,643 including Kshs.51,462,643 being payment of arrears not entered in the cash book. The arrears were attributed to a Court Order of 10 May 2004 on realignment /harmonization of personnel. However, supporting documents were not provided to confirm validity of the payments made twelve (12) years after the court order was issued.

Submission by Accounting Officer

The accounting officer stated that it was true that during the year under review, the Ministry incurred employee costs of Kshs. 1,351,320,643 including Kshs. 51,462,643 being payment of arrears. It was true that the arrears were attributed to a Court Order of 20th May 2004 on realignment/ harmonization of personnel. The indicated payments were duly posted in both the system and manual Cash Books which were availed for audit verification. Consequently, the supporting documents in respect of these payments have also been availed for verification.

Committee Observations and Findings

The Ministry incurred employee costs of Kshs. 1,351,320,643 including Kshs. 51,462,643 being payment of arrears which were attributed to a Court Order of 20th May 2004 on realignment/ harmonization of personnel pay.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

291.2 Commuted Leave

Included in employee costs are commuted leave allowances amounting to Kshs. 5,814,663 paidcontrary to Section N of the Government Code of Regulations Revised 2006 and Department of Personal Management (DPM) Circular No.DPM/38/1/1A/38. The State Department has been commuting leave for cash for the last two financial years (2014/2015 and 2015/ 2016) for various staff across different cadres. Scrutiny of personnel files across different department's revealed cases where officers never applied for leave in the financial year under review, while others applied for leave and were subsequently granted but still commuted leave for cash.

Submission by Accounting Officer

The accounting officer stated that it was true that included in employee costs are leave allowances amounting to Kshs. 5,814,663. Commutation of leave for cash is in accordance with Office of the President circular letter Ref: No DPM 38/1/2A(81) dated 27th December, 2005. Commutation of balance of leave days for cash in the year 2014/2015 and 2015/2016 was done due to exigencies of duty. Staff could not take leave since the ministry was implementing three court awards for Meteorological assistants that involved upgrading of more than five hundred officers since 1995. The process was very involving and staff could not take their annual leave to enable the Ministry to meet the deadline, hence staff who had applied for leave were advised to remain in the office to complete the exercise and those who were unable to utilize their leave days fully due to exigencies of duty during that period

Committee Observations and Findings

(i) The State Department has been commuting leave for cash for the last two financial years (2014/2015 and 2015/ 2016) for various staff across different cadres; and
(ii) Included in employee costs for the FY 2015/2016 are commuted leave allowances amounting to Kshs. 5,814,663 paid contrary to Section N of the Government Code of Regulations Revised 2006 and Department of Personal Management (DPM) Circular No. DPM/38/1/1A/38.

Committee Recommendations

The Accounting Officers should ensure that officers take their annual leave in line with the Government Code of Regulations Revised 2006.

291.3 Un-authorized Imprest Refunds

The State Department paid without authorization Kshs. 12,604,598 as refunds for over spent imprests. This amounted to making irregular payments.

Submission by Accounting Officer

The accounting officer stated that the State Department paid without authorization Kshs. 12,604,598 as refunds for over spent imprests hence making irregular payments;

i. That the said expenditure was duly authorized by the Accounting Officer.
ii. These payments/refunds were occasioned by the fact that officers were called upon by the Accounting Officer or Cabinet Secretary to undertake tasks on a short notice where processing of imprests was not practical. Therefore, the officers would lodge a claim upon the completion of the assignment.
iii. That some of these assignments take longer than anticipated and therefore compelling the officers to take more days which result to additional expenditure.
iv. That the Ministry has put measures in place to ensure that the assignments are completed within the stipulated time frame.

Committee Observations and Findings

The State Department paid Kshs. 12,604,598 as refunds for over spent imprests. The expenditure was duly authorized by the Accounting Officer.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved. Further, accounting office must ensure that future assignments are completed within the stipulated time frame.

291.4 Unexplained Casual Wages

Casual wages balance of Kshs. 109,103,207 shown in the financial statements is supported with a schedule showing balances which add up to Kshs. 114,393,223 resulting in an unexplained difference of Kshs. 5,290,016. Included in the compensation of employees balance is the sum of Kshs. 3,025,000 paid as meal allowance to staff contrary to Circular No MSPS 18/2A/89 dated 12th November 2009. In addition Kshs. 1,200,400 included in the compensation of employees relates to other expenditure items which have been misposted. Under the circumstance, the propriety of the expenditure of Kshs.79, 397,320 as at 30 could not be ascertained.

Submission by Accounting Officer

The accounting officer stated that it was true that the financial statement reflected Kshs. 109,103,207 while the supporting schedule indicated Kshs. 114,393,223 resulting to a difference of Kshs. 5,290,016. It is also true that in the compensation of employees balance is the sum of Kshs. 3,025,000 paid as meal allowance to staff. It is further true that in addition Kshs. 1,200,400 included in the compensation of employees relates to other expenditure items misposted.

The difference of Kshs. 5,290,016 has since been reconciled and adjustments made accordingly.

With regard to the amount of Kshs. 3,025,000 which was paid as meal allowance to staff, this amount was a misposting which has subsequently been corrected.

With regard to an amount of Kshs. 1,200,400 included in the compensation of employees, we would like to confirm that this was an erroneous posting and the same has since been rectified.

Committee Observations and Findings

(i) The financial statement reflected Kshs. 109,103,207 while the supporting schedule indicated Kshs. 114,393,223 resulting to a difference of Kshs. 5,290,016. In the compensation of employees balance was the sum of Kshs. 3,025,000 paid as meal allowance to staff. In addition Kshs. 1,200,400 included in the compensation of employees related to other expenditure items misposted;

(ii) The resulting difference of Kshs. 5,290,016 has since been reconciled and adjustments made accordingly. With regard to the amount of Kshs. 3,025,000 which was paid as meal allowance to staff, this amount was a misposting which has subsequently been corrected.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

292. Accuracy and Completeness of the Financial Statements

292.1 Un-disclosed Borrowings

Proceeds from foreign borrowing of Kshs. 39,536,444 included in the statement of receipts and payments are not supported with a schedule showing amount received from each of the donors. It has therefore not been possible to confirm the completeness of the sum of Kshs. 39,539,444.

Submission by Accounting Officer

The accounting officer stated that it was true that proceeds from foreign borrowing of Kshs.39,536,444 included in the statement of receipts and payments was not supported with a schedule showing amount received from each of the donors.

The proceeds from foreign borrowings of Kshs. 39,536,444 received from donors is as analyzed here below:-

Ozone Depleting Substances	10,900,000.00
Mercury Initial	17,941,648.00
National Biodiversity	10,694,796.00
Total	**39,536,444.00**

Committee Observations and Findings

Proceeds from foreign borrowing of Kshs. 39,536,444 included in the statement of receipts and payments were not supported with a schedule showing amount received from each of the donors.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

292.2 Expenditure Misclassification and Misposting

The Appropriation Account reflects expenditure amounting to Kshs. 23,789,323 which has been charged to wrong expenditure heads.

No.	Description	Amount (Kshs)
1	Purchase of Specialized Plant	5,751,667
2	Purchase of Certified seeds	3,420,000
3	Research and Feasibility studies	13,417,256
4	Personnel Emoluments	1,200,400
Total		**23,789,323**

The inconsistency in charging the expenditures to wrong account class undermines the accuracy of the financial statements and renders budgeting meaningless. As a result, the propriety and validity of the expenditure of Kshs. 23,789,323 could not be confirmed.

Submission by Accounting Officer

The accounting officer stated that it wastrue that the Appropriation Account reflects expenditure amounting to Kshs.23,789,323 which had been charged to wrong expenditure heads as detailed here below:-

S/No.	Description	Kshs.
1.	Purchase of Specialization Plant	5,751,667
2.	Purchase of Certified Seeds	3,420,000
3.	Research and Feasibility Studies	13,417,256
4.	Personnel Emoluments	1,200,400
	Total	**23,789,323**

During the period under review, it became necessary for the Ministry to undertake the programmes and activities as enshrined in to strategic plan. It therefore became regrettably necessary to charge the expenditure to unrelated vote heads. However, the Ministry has put in place the measures/controls to ensure that the expenditures are charged within the relevant Heads and Items.

Committee Observations and Findings

The Appropriation Account reflects expenditure amounting to Kshs.23,789,323 which had been charged to wrong expenditure

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records devoid of expenditures misclassification are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

292.3 Non-Submission of Project Financial Statements

The Ministry did not prepare and submit for audit financial statements for the following projects as required under the Public Audit Act, 2015 and the Public Finance Management Act, 2012:

1. Kenya Agricultural Productivity and Sustainable Land Management
2. Natural Resource Management (NRM) Programme
3. Kenya National Implementation Plan
4. Global Environment Facility Regional Power Trade Conversion

The Ministry therefore contravened the laws on accountability for public expenditure.

In view of the foregoing, the accuracy and completeness of the financial statements for the year ended 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The accounting officer stated that it was true that the Ministry did not prepare and submit for audit Financial Statements for the following Projects:-

i) Kenya Agricultural Productivity and Sustainable Lands

ii) Management Natural Resource Management Program

iii) Kenya National Implementation Plan

iv) Global Environment Facility Regional Power Trade

The accounting officer further stated that

i) Kenya Agricultural Productivity and Sustainable Lands

With regard to Kenya Agricultural Productivity and Sustainable Lands Management we would wish to point out that the Financial Statements were to be reported by the Ministry of Agriculture where the vote was domiciled. The Ministry was funded through a sub-AIE which was to be accounted for at the Ministry for Agriculture.

ii) Natural Resource Management Program)

With regard to this Project, we would like to state that the financial statements were submitted.

iii) Kenya National Implementation Plan

This Project ended during the Financial Year 2014/15 and therefore the Financial Statements were not prepared.

iv) Global Environment Facility Regional Power Trade

The Project did not exist in the Ministry during the period under review.

Committee Observations and Findings

The Ministry did not for various reasons prepare and submit for audit financial statements for the following projects:- Kenya Agricultural Productivity and Sustainable Lands; Management Natural Resource Management Program; Kenya National Implementation Plan; and Global Environment Facility Regional Power Trade

Committee Recommendations

Accounting Officers must all times comply with the provisions of article 226 of the COK 2010, the relevant provisions of the PFM Act 2012, the PFM (National Government) Regulations 2015, and other Government Financial Regulations on preparation of financial statements.

293. Irregular Procurement Expenditure

293.1 Procurement, Delivery, Installation and Commissioning of Outdoor Weather Display Board

The Ministry made a payment of Kshs. 5,999,715 to M/S Airbone Logistics Limited for the supply, installation and commissioning of outdoor electronic weather display board equipment reportedly delivered in 2010. It has not been explained how a supplier would raise an invoice in 2016 for a supply made in 2010. No evidence was provided to confirm that the supply was indeed made in 2010. Consequently, it has not been possible to confirm validity and propriety of the payment of Kshs. 5,999,715 made to the supplies.

Submission by Accounting Officer

The Accounting Officer stated that it was true the ministry made payment of Kshs. 5,999,715 to M/S Airbone Logistics Limited for the supply, Installation and Commissioning of Outdoor Electronic Weather Display Board equipment delivered in 2010.

The delay was   attributed to challenges in the identification of an alternative site for the Weather Display board that arose as a result of cancellation by Nairobi City Council of the originally agreed site that was to be at the Railways Bus terminus.

Conditions for appropriate site were:

1.	Government owned building or premises.
2.	Security considerations
3.	Available infrastructure i.e. Electricity
4.	Cost of running the board (non-payment of applicable rates)
5.	Public viewership reaches (premises with wider public reach)

After intensive searches which turned out to be unsuccessful, KMD resolved to have the board installed in their premises at Dagoretti Corner, fully cognizant of the fact that installation for the same had taken long.

Installation of the Weather Display board was done in the year 2015 and handed over after successful testing and commissioning of the same after a comprehensive inspection, acceptance and hand over report signed on 22nd June 2015. Upon successful installation and testing, KMD processed a combined balance of payment of Kshs. 3,599,829 being 15% of the contract sum and Kshs. 2,399,886.50 being 10% of the contract sum. The two (2) figures amount to Kshs. 5,999,715 which was in question. The weather Display board has been in operation ever since.

Committee Observations and Findings

The ministry made payment of Kshs. 5,999,715 to M/S Airbone Logistics Limited for the supply, Installation and Commissioning of Outdoor Electronic Weather Display Board equipment delivered in 2010. The delay was   attributed to challenges in the identification of an alternative site for the Weather Display board that arose as a result of cancellation by Nairobi City Council of the originally agreed site that was to be at the Railways Bus terminus.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.
293.2 Supply of Firefighting Equipment

The Ministry paid Kshs. ``4,23,700 to M/S Ryma Internal Company for the purchase of firefighting equipment. However, no tender minutes approving the award of the contract were provided for audit review. Further, the tender documents and local purchase order did not specify the parameters of the equipment to be supplied. Therefore, the quality of equipment supplied to the Ministry could not be confirmed. As a result, value-for-money on the expenditure of Kshs. 4,239,700 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that Ms. Ryma International vide voucher number 008059 was paid Kshs. 4,239,700 for the purpose of supplying firefighting equipment to KMD. Though indicated that no tender minutes approving the award of the contract were provided for audit review and that the tender documents and local purchase order did not specify the parameters of the equipment to be supplied; The approval for this procurement is captured under MIN. NO.

MENR/KMD/02/07/2015-2016 of a professional opinion done and approved to this effect. The tender documents for the same have since been availed for audit verification. The type of equipment that was being supplied included the following parameters:-

1.	Fire blankets.
2.	Smoke alarms
3.	Fire exit signs.
4.	Fire cabinets
5.	Fire extinguishers.

The items were taken on charge and have been successfully installed.

Procurement processes were followed and adhered to in regard to this procurement hence avoiding any incidences of loss of government funds.

Committee Observations and Findings

Ms. Ryma International vide voucher number 008059 was paid Kshs. 4,239,700 for the purpose of supplying firefighting equipment to KMD. Though indicated that no tender minutes approving the award of the contract were provided for audit review.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

293.3 Supply of 2 Nos. 20KVA UPS

A firm was awarded a tender to supply two 20 KVA Uninterrupted Power Supply Equipment (UPS) to the Ministry at a contract price of Kshs. 7,331,250. However, the Tender Committee Minutes awarding the contract were not provided for audit review. Further, market survey indicated the price for the item was Kshs. 828,302 against the contract price of Kshs. 3,665,625 thus the two items bought was each overpriced by Kshs. 2,837,323. The Ministry therefore lost Kshs. 5,674,646 in the transaction. Management has not indicated any measures put in place to recover the lost amount.

Submission by Accounting Officer

The Accounting Officer stated that it was true that a firm was awarded to supply two 20 KVA Uninterrupted Power Supply Equipment (UPS) to the Ministry at a contract price of Ksh. 7,331,250. Though indicated that the Tender Committee minutes awarding the contract were not provided for audit review and that market survey indicated the price for the item was Kshs.828,302 against the contract price of Kshs.3,665,625 and thus the two items bought were each overpriced by Kshs.2,837,323;

The tender was awarded to Ms. Grapejoi Enterprises for the supply and delivery of 2 No.20 KVA UPS' at a total cost of Kshs.7,331,250.00 being the lowest technically responsive bidder in an evaluation process involving five bidders. The Minutes awarding this procurement are available under minute DENR/DT/06/2014-2015. (Annex 8)

The Evaluation committee in making its award reduced the quantity of the UPS's from three to two, owing to budgetary constraints that only allowed for two UPS's and not three as earlier tendered.

In making their award, the evaluation committee was guided by market survey for similar UPS's that was being sold at a market price of Kshs. 3,154,000.00 in the international market. A similar type of UPS's was not available in the local market as at that time for comparison. By doing this, the budget was neither strained nor was the contract overpriced.

It was important to note that market survey by the Auditors was conducted two years after the equipment had been acquired. It is also important to take note that market for technological equipment is so dynamic and comparing the two prices may not give a true picture.

It was worth noting that the model that was procured is based on latest technological design and high performance that wasn't available in the local market at that time and the service guarantee.

Committee Observations and Findings

A firm was awarded a tender to supply two 20 KVA Uninterrupted Power Supply Equipment (UPS) to the Ministry at a contract price of Kshs. 7,331,250. However, market survey indicated the price for the item was Kshs. 828,302 against the contract price of Kshs. 3,665,625 thus the two items bought was each overpriced by Kshs. 2,837,323. The Ministry therefore may have lost Kshs. 5,674,646 in the transaction.

Committee Recommendations

- **(i) The DCI should, Within three (3) months of adoption of this report, investigate with a view to determine possible loss of funds, the tender which was awarded to Ms. Grapejoi Enterprises for the supply and delivery of 2 No.20 KVA UPS' at a total cost of Kshs.7,331,250.0; and**
- **(ii) Any public officer found liable for any loss arising from the tender shall make good the loss, whether the person remains the holder of the office or not in line with Article 226 (5) of the Constitution of Kenya 2010**

293.4 Sub-contracting of Supply, Delivery, Installation and Commissioning of Integrated Meteorological Data Collection System

The Ministry awarded a contract of Kshs. 169,500,054 to New Edge Solutions Limited on 2 November 2012 for the supply, delivery, installation and commissioning of integrated meteorological data collection equipment. However, the contract was signed between the two parties on 18 October 2014 which was two years after the award. The contractor, without the approval of the contractee subcontracted the whole contract to Klass contrary to the Public Procurement and Disposal Act, 2005. Under the circumstance, the payment of Kshs. 169,500,054 is an irregular charge to public funds.

Submission by Accounting Officer

Related 395.1

The Accounting Officer stated that it was true that the Ministry awarded a contract of Kshs. 169,500,054 to M/S. New Edge Solutions on 2nd November 2012 for the supply, delivery, installation and commissioning of integrated meteorological data collection equipment. It is also true that the contract was signed between the two parties on 18th October 2014 which was two years after the award. It is also true that the contractor subcontracted the contract to M/S Klass.

The delay in initiating this procurement was as a result of unplanned budget cuts owing to austerity measures and Exchequer challenges which had been occasioned by non-payment of pending bills which are subsequently carried forward and therefore affecting the procurement for succeeding years.

Section (15) of the Standard Tender Document on Subcontracts allows the tenderer to notify the procuring entity in writing of all subcontracts awarded under the contract if not already specified in the tender, such notification, in the original tender or later shall not relieve the tenderer from any liability or obligation under contract.

This clause clearly allows for subcontracting upon official consent which was awarded by the Ministerial Tender Committee (MTC). The department on receipt of the request from the contractor for subcontracting the works was guided by the above clauses.

It was important to note that only specific technical aspects were contracted and not the entire contract. The contractor will execute the other aspects of the contract. However it is also clearly indicated that the contractor remains liable for the execution and obligation of this contract. The main contractor is still liable to Kenya Meteorological Department. The contractor only issued instruction for subcontracting of the works and payments. Otherwise the contractual obligation remains with the contractor. This contract is ongoing and only partial payment of Kshs. 84,930,027.00 about (50%) has been effected.

Committee Observations and Findings

Ministry awarded a contract of Kshs. 169,500,054 to New Edge Solutions Limited on 2 November 2012 for the supply, delivery, installation and commissioning of integrated meteorological data collection equipment. However, the contract was signed between the two parties on 18 October 2014 which was two years after the award

Committee Recommendations

The Director-General for PPRA should, within three (3) months of adoption of this report, investigate any possible violation of the PPAD Act 2015 the action of M/S New Edge Solutions Limited subcontracting the whole tender to M/S Klass.

293.5 Irregular Construction of Embu County Office

The Meteorological Department contracted M/S Cofard Construction (K) Limited to construct a model County Office in Embu in 2009 at a contract sum of Kshs.11,532,396 by floating a quotation contrary to the Public Procurement and Disposal Act, 2005. The contract sum was revised upwards to Kshs.14,548,499 without adherence to procurement procedures. Further, no contract was signed between the two parties as required by the Public Procurement and Disposal Act, 2005. To date, the project has stalled casting doubt on the regularity of the expenditure of Kshs. 14,548,499.

Submission by Accounting Officer

Related 395.2

The Accounting Officer stated that it was true that the Meteorological Department contracted M/S. Cofard Construction (K) Limited to construct a model County office in Embu in 2009 at a contract sum of Kshs. 11,532,396. Though indicated that the contract sum was revised upwards to Kshs. 14,548,899 without adherence to procurement procedures and that no contract was signed between the two parties as required by Public Procurement and Disposal Act, 2015;

The project was approved by Project Implementation and Management Advisory Committee (PIMAC) of the Department.

The Procurement was tendered for by the Ministry of Public Works through Restricted Tendering for Prequalified contractor and not by request for Quotation.

A contract between KMD and the contractor was raised and signed by both parties. The contract was revised upwards owing to variations to works that were approved by Ministry of Public Works. The variation was within the allowed provisions in the Public Procurement and Asset Disposal Act.

The delay in completion of the project is as a result of limited budgetary allocation of funds to the relevant vote head and not as a result of leniency by the supervisory team. The project has since been completed and the building fully occupied. The same is available for viewing and verification where necessary.

Committee Observations and Findings

The explanation of the Accounting Officer that the Procurement was tendered for by the Ministry of Public Works through restricted tendering for pre-qualified contractors and not by request for Quotations was insufficient as there was no justification provided for using restricted tendering to construct a model County office in Embu at a contract sum of Kshs.11, 532,396 pursuant to section 73 of the Public Procurement and Disposal Act, 2005.

Committee Recommendation

The EACC and DCI should, within three months after adoption of this report, investigate the propriety of using restricted tendering to construct a model County office in Embu at a contract sum of Kshs.11, 532,396 by the State department of Environment and Natural Resources during the financial year 2014/2015.

293.6 Tender to Construct Observatory Units

The State Department awarded a tender for construction of two observatory units to Signature Contractors and General Supplies at a tender sum of Kshs. 6,771,936. However, two months later, the State Department awarded a similar contract to Venera Investment at a Contract sum of Kshs. 13,543,872 which was twice the cost of the contract awarded to the first contract for the same work.

In the circumstance, it has not been possible to ascertain the propriety of the expenditure of Kshs. 13,543,872 and the rationale for double award of the contract for observatory unit construction.

Submission by the Accounting Officer

Related 395.3

The accounting officer stated that it was true that the Ministry awarded the tender to construct two Observatory units. The tender was awarded to M/s. Signature Contractors General Supplies at a cost of Kshs. 6,771,936.00.

That the Ministry awarded the tender to M/S Signature contractors at a sum of Kshs. 6,771,936 and not M/s Vinera Investments as has been indicated.

The Ministerial Tender Committee minutes awarding the same have been attached for perusal.

The Observatory units were constructed for the Institute of Meteorological Training and Research (IMTR). The tendering for the works was done by the Ministry of Works. A report prepared by the Ministry of Works was forwarded to the Ministerial Tender Committee for adjudication

Committee observations and findings

The explanation of the Accounting Officer that the Ministry awarded a tender to construct two observatory units to Signature Contractors and General Supplies at a tender sum of Kshs.6, 771,936 per unit and not Vinera Investments was acceptable. 2. The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

293.7 Nugatory Contract for Supply, Delivery Installation and Commissioning of Weather Observation System

During the year under review, the State Department paid Kshs. 9,491,023 to Kenya Auto Electrical Limited being 50% payment for the supply, delivery and commissioning of Weather Observatory Systems. The payment was made based on the purported supply procured in 2007. The Local Purchase Order was issued in 2007, and Delivery Note was dated 6 October 2008. There was no contract attached to support the payments besides no mention being made regarding previous payments made and delivery of the system.

In the circumstance, the propriety of the payment of Kshs. 9,491,023 could not be confirmed.

Submission by Accounting Officer

The accounting officer stated that it wastrue that during the year under review, the Ministry paid Kenya Auto Electrical Limited Kshs. 9,491,023.00 being 50% payment for the supply, delivery, installation and commissioning of Airport Weather Observation System.

This contract was awarded to M/s Kenya Auto Electrical Limited for the supply, delivery, and installation and commissioning of Airport Weather Observation System at contract sum of Kshs. 18,982,040. This contract was signed between the then Ministry of Transport and the contractor. Kenya Meteorological Department (KMD) was then under the Ministry of Transport, but was later moved to the Ministry of Environment during the government reorganization in the year 2008.

This system was installed at the Wilson Airport. During the said period, Ministry of Transport paid the 1st 50% payment of Ksh. 9,491,020.00 due to the contractor vide payment cheque No.005099 dated 30/06/2007.

The remaining 50% final payment Ksh.9,491,020.00 was not processed on time due to the administrative investigations which was being performed by the then Kenya Anti-Corruption Authority (KACA).

The officers took away all the procurement documentations while investigating a case for a project named National Early Warning Systems (NEWSS) which formed part of the security contracts by the then Ministry of Transport.

Given that the relevant documents were taken by KACC and coupled with the change of the Department from Ministry of Transport to Ministry of Environment, it then became complicated to track the payments on this contract.

Efforts were made to get more information from the Ministry of Transport but the same was not forthcoming, KMD therefore was hesitant to pay the balance due to the contractor despite repeated reminders until the claim was authenticated.

The department then embarked on a search for any documentation which could support this payment. The voucher movement register in the accounts section for the same period revealed that only 50% payment was done and 50% final payment was outstanding. This is when KMD decided to pay the contractor the balance due to them.

The contractor was requested to give an indemnity certificate which was attached to the voucher. The delays in the payment was as a result of due diligence carried out by KMD before processing thisoutstanding amount.

Committee observations and findings

The explanation by the Accounting Officer that the KMD established final payment of Ksh.9,491,020.00 was not processed on time due to the administrative investigations which were being performed by the then Kenya Anti-Corruption Authority (KACA) during which officers took away all the procurement documentation while investigating a case for a project named National Early Warning Systems (NEWSS) which formed part of the security contracts by the then Ministry of Transport; hence relied on the voucher movement register to effect payment was reasonable.

The Committee marked the matter as resolved.

Committee Recommendations

Investigative Agencies that seize government documents while undertaking investigations must always avail copies of the said documents to the Auditor General. Any officer who fails to comply should be investigated and prosecuted for failure to provide any information in the officer's possession, or under the officer's control pursuant to section 197(2) (k) of the Public Finance Management Act, 2012.

294. Loss of Government Vehicle

As reported in 2014/2015, the State Department vehicle registration number GKA 152Q (though assigned civilian number plate KAY 953F) valued at Kshs.5,460,000 was lost at Mlolongo area in Machakos County under unclear circumstances on 24 August 2013 at around 9.00 pm and was at the time being driven by an unauthorized person. However, Government regulations on reporting of stolen vehicles were not followed in reporting of the matters in the Ministry. It therefore seems that there is an intention to conceal the loss.

Management has not initiated any measures to recover the loss of Kshs.5,460,000 from the responsible parties.

Submission by Accounting Officer

The accounting officer stated that it was true that as reported in 2014/2015, the State Department vehicle registration number GK 152Q (though assigned civilian number plate KAY 953F) valued at Kshs.5,460,000 was reported lost at Mlolongo area in Machakos County under unclear circumstances on 24th August, 2013 at around 9.00am.

As indicated in Para 396 of 2014/2015 the matter was reported by the driver Mr Boniface Mwaura Kimani as a car-jacking incident at the Kileleshwa police station (CR142/64/2013) on 24th August 2013. He also reported the matter to the Principal Secretary through the transport officer. The matter is still under investigation by the Kenya Police Service.

The Ministry has been making efforts to address this matter and ultimately resolve it conclusively.

Committee Observations and Findings

The matter is under investigation by the police.

Committee Recommendations

(i) **The DCI should expedite these investigations and have the matter concluded within three months after adoption of this report.**
(ii) **The Accounting Officer should, within three months after adoption of this report, take administrative action against any officer who is adversely mentioned in this incident.**

Other Matter

295. Revenue Shortfalls

The aggregate exchequer release of Kshs. 16,077,551,281 for the year under review were short of the approved budget figure of Kshs.20,395,438,968 by Kshs.4,317,887,687 whose variance has not been explained as detailed below

No.	**Item**	**Budget Kshs.**	**Actual Kshs.**	**Variance** Kshs
1	Recurrent	13,084,864,027	12,726,463,867	(358,400,160)
2	Development	7,310,574,941	3,350,967,214	(3,959,607,927)
Grand-Total		**20,395,438,968**	**16,077,431,081**	**(4,318,007,887)**

Submission by Accounting Officer

The accounting officer stated that it was true that the aggregate Exchequer release of Kshs.16,077,551,281 for the year under review were short of the approved budget of Kshs.20,395,438,968.00 by Kshs.4,317,887,687.00 as detailed here below:-

No.	**Item**	**Budget Kshs.**	**Actual Kshs.**	**Variance Kshs.**
1	Recurrent	13,084,864,027	12,726,463,867	(358,400,160)
2	Development	7,310,574,941	3,350,967,214	(3,959,607,927)
	Grand Total	20,395,438,968	16,077,431,081	(4,318,007,887)

As explained earlier, the revenue shortfall of Kshs. 4,318,097,887.00 was due to non-release of Exchequer Issues from the National Treasury. However, the Ministry is in liaison with the National Treasury with a view of ensuring that all the Exchequer releases are disbursed in good time.

Committee Observations and Findings

The aggregate exchequer release of Kshs. 16,077,551,281 for the year under review were short of the approved budget figure of Kshs.20,395,438,968 by Kshs.4,317,887,687 attributed to non-release of Exchequer Issues from the National Treasury.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

295.1 Recurrent Grants

The State Department received Kshs.12,726,463,867 as exchequer releases out of the budgeted recurrent grant amount of Kshs.13,084,864,027 resulting to in unexplained shortfall of Kshs.358,400,160.

Submission by Accounting Officer

The accounting officer stated that it was true that State Department received Kshs. 12,726,463,867.00 as Exchequer releases out of the budgeted recurrent grant amount of Kshs. 13,084,864,027.00 resulting to a shortfall of Kshs. 358,400,160.00.The difference of Kshs. 358,400,160 arose as a result of non-release of exchequer issues from the National Treasury.

Committee Observations and Findings

The State Department received Kshs. 12,726,463,867.00 as Exchequer releases out of the budgeted recurrent grant amount of Kshs.13, 084,864,027.00 resulting to a shortfall of Kshs.358,400,160.00 as a result of non-release of exchequer issues from the National Treasury

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved

295.2 Development Grants

The State Department received Kshs. 3,350,967,214 as exchequer releases out of the budgeted development grant amount of Kshs. 7,310,574,940 resulting in an unexplained shortfall of Kshs. 3,959,607,927. Further, the total exchequer receipts of Kshs. 16,077,551,281 received diffrom the amount of Kshs. 16,077,431,081 shown in the statement of comparative budget and actuals by Kshs. 120,200.

Submission by Accounting Officer

The accounting officer stated that it was true that the State Department received Kshs. 3,350,967,214 as Exchequer releases out of the budgeted Development grant amount of Kshs. 7,310,574,940 resulting to a short fall of kshs3, 959,607,927.

It was also true that the total Exchequer Receipts of Kshs. 16,077,551,281 received differ from the amount of Kshs. 16,077,431,081 shown in the statement of comparative budget resulting to variance of Kshs. 120,200.The shortfall of Kshs. 3,959,607,927 was occasioned by non-release of all the Exchequer issues from the National Treasury. It was also occasioned by non-disbursement of funds by our development partners. With regard to the variance of Kshs. 120,200, this was an under cast which has since been adjusted accordingly

Committee Observations and Findings

The State Department received Kshs. 3,350,967,214 as Exchequer releases out of the budgeted Development grant amount of Kshs. 7,310,574,940 resulting to a short fall of kshs3, 959,607,927.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

295.3 Expenditure Budget Analysis

Comparison of budgeted item provisions against actual expenditures reflected the following

Item	**Budget Kshs.**	**Actual Kshs.**	**Variance Kshs**
Compensation of Employees	1,278,994,704	1,289,153,060	(10,158,356)
Use of Goods and Services	837,334,527	711,810,514	125,524,013
Transfer to other Government Units	10.897,783,151	10,741,807,813	155,975,338
Social Benefits	5,000,000	4,998,630	1,370
Other Grants and Transfers	33,605,040	29,344,290	4,260,750
Acquisition of Assets	32,146,605	12,433,341	19,713,264
Total	**13,084,864,027**	**12,789,547,648**	**295,316,379**

Submission by Accounting Officer

The accounting officer stated that it was true that comparison of budgeted item provisions against actual expenditures reflected variance of Kshs**. 295,316,379**

The variances were occasioned by non-release of exchequer issues by the National Treasury as well non-release of grants and loans by the donors. No explanation has been provided by the Ministry for these variances.

Committee Observations and Findings

A comparison of budgeted item provisions against actual expenditures reflected variance of Kshs. 295,316,379 which was occasioned by non-release of exchequer issues by the National Treasury as well non-release of grants and loans by the donors.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

295.4 Use of Goods and Services

During the year under review, the State Department spent a total of Kshs.711,810,514 on use of goods and services against the approved budget provision of Kshs.837,334,527 resulting in under-expenditure by Kshs.125,524,033 or 85% absorption rate. No explanation has been provided for the under absorption.

Submission by Accounting Officer

The accounting officer stated that it was true that during the year under review, the State Department spent a total of Kshs. 711,810,514 on use of goods and services against the approved budget provision of Kshs. 837,334,527 resulting to under expenditure by Kshs. 125,524,033 or 85% absorption rate. This scenario was occasioned by the lengthy procurement procedures and non-release of exchequer issues from the National Treasury.

Committee Observations and Findings

The State Department spent a total of Kshs. 711,810,514 on use of goods and services against the approved budget provision of Kshs. 837,334,527 resulting in under-expenditure by Kshs. 125,524,033 or 85% absorption rate.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

295.5 Acquisition of Non-financial Assets

The State Department spent a total of Kshs. 12,433,341 or 39% on acquisition of assets against the approved budget of Kshs. 32,146,605 resulting in an underutilization of the budget by Kshs. 19,713,264**.**

Submission by Accounting Officer

The accounting officer stated that it was true that the state department spent a total of Kshs.12,433,341 on acquisition of assets against the approved budget provision of Kshs.32,146,605 resulting in an underutilization of the budget by Kshs.19,713,264. The underutilization of Kshs. 19,713,264 was occasioned by non-release of Exchequer Issues from the National Treasury.

Committee Observations and Findings

The state department spent a total of Kshs. 12,433,341 on acquisition of assets against the approved budget provision of Kshs. 32,146,605 resulting in an underutilization of the budget

by Kshs. 19,713,264 which was occasioned by non-release of Exchequer Issues from the National Treasury.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

295.6 Transfers to Other Government Units

The State Department paid Kshs. 10,741,807,813 as transfers to other Government entities during the year against an approved budget of Kshs. 10,897,783,813 resulting in underfunding of Kshs. 155,975,338. It has not been explained why the State Department retained funds meant for other agencies and thus constrained their capacities to deliver services to the public.

In view of the foregoing, the State Department did not achieve its planned and budgeted activities and its objectives for the year under review.

Submission by Accounting Officer

The accounting officer stated that it was true that the State Department paid Ksh.10,741,807,813 as transfers to other government entities during the year against an approved budget of Ksh.10,897,783,813 resulting in under funding of Ksh.155,975,338.

The underfunding of Kshs. 155,975,338 was due to the fact that National Treasury did not release all the exchequer issues**.**

Committee Observations and Findings

The State Department paid Ksh.10,741,807,813 as transfers to other government entities during the year against an approved budget of Ksh.10,897,783,813 resulting in under funding of Ksh.155,975,338 which was due to the fact that National Treasury did not release all the exchequer issues.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

DONOR FUNDED PROJECTS

INSTITUTIONAL STRENGTHENING OF THE OZONE DEPLETING SUBSTANCES PROJECT (UNEP PROJECT ACCOUNT NO. UNEP/KEN/SEV/62/INS)

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this Project.

Committee Observations

The Institutional Strengthening of the Ozone Depleting Substances Project (UNEP Project Account No. UNEP/KEN/SEV/62/INS) received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Project Team for Institutional Strengthening of the Ozone Depleting Substances Project (UNEP Project Account No. UNEP/KEN/SEV/62/INS) for

maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

LAKE VICTORIA ENVIRONMENTAL MANAGEMENT PROJECT PHASE II (IDA CREDIT NO. 4532-KE AND IDA CREDIT NO. 5634-KE)

Basis for Qualified Opinion

296. Accuracy of Financial Statements

The statement of financial assets and liabilities as at 30 June 2016 under liabilities reflect a prior year adjustment figure of Kshs. 10,613,218 which has not been supported with information and documentation. Further, the reporting template provided by the Public Accounting Standards Board (PASB) requires that the statement of receipts and payments include cumulative to-date figures for all items indicated therein. However, upon review of the financial statements provided, it was observed that only cumulative figures for two years have been provided as opposed to total figures since inception of the project. Consequently, the financial statements do not provide relevant, reliable and comparable information.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of Financial Assets and Liabilities as at 30th June 2016 under liabilities reflect a prior year adjustment figure of Ksh. 10,613,218.00 which was not supported with information and documentation. It is further true that the reporting template provided by the Public Accounting Standards Board (PASB) requires that the statement of receipts and payments include cumulative to date figures for all items indicated therein.

The accounting officer stated that

i. Necessary amendments to the Financial Statements were carried out as per template provided by PASB and prior year matters reconciliation were annexed to the Financial Statement.
ii. That this Ministry is ensuring that all donor funded projects accounts are prepared in conformity with the public accounting standards board (PASB).
iii. That in the subsequent financial years this matter has not featured at all.
iv. That this Ministry has undertaken to ensure that all donor funds projects accounts attain unqualified opinion.

Committee Observations and Findings

The statement of Financial Assets and Liabilities as at 30th June 2016 under liabilities reflect a prior year adjustment figure of Ksh. 10,613,218.00 which was not supported with information and documentation

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

297. Cash Balances

The statement of financial assets and liabilities as at 30 June 2016 reflects a cash balance of Kshs.1,244,954, which differs with the ledger balance of Kshs.2,870,018 by an unexplained and unsupported figure of Kshs.1,625,064. Consequently, the accuracy of the statement of financial assets and liabilities cash balance of Kshs. 1,244,954 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of financial assets and liabilities as at 30th June 2016 reflects a cash balance of Ksh.1,244,954 which differs with the ledger balance of Ksh.2,870,018.00 by an unexplained and unsupported figure of Ksh.1,625,064.

On this matter we wish to state that the book balance of Ksh. 2,870,018 was adjusted in the amended Financial Statement to state the correct cash balance of Ksh.1, 244,954.

Committee Observations and Findings

The statement of financial assets and liabilities as at 30th June 2016 reflects a cash balance of Ksh. 1,244,954 which differs with the ledger balance of Ksh. 2,870,018.00 by an unexplained and unsupported figure of Ksh. 1,625,064. The book balance of Ksh. 2,870,018 was adjusted in the amended Financial Statement to state the correct cash balance of Ksh.1, 244,954.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

Other Matter

298. Water Hyacinth Harvester System

During the financial year 2014/2015, the project initiated the process to acquire a water Hyacinth Harvester System at a contract price of EUR 680,000 which is equivalent to Kshs. 73,745,252 using the rates ruling as at 10 December 2016. The equipment was delivered to Kisumu on 12 April 2016 and training on its use conducted. As at the time of audit in December 2016, the machine had not been commissioned as management explained that the machine had some mechanical problems which were to be resolved by the supplier before commissioning. The equipment is therefore still not in use since the year 2014/2015.

Submission by Accounting Officer

The Accounting Officer stated that it was true that during the Financial Year 2014/2015 the projectinitiated procurement of the water hyacinth harvester system at a contract price of EURO 680,000 which is equivalent to Ksh.73, 745,252 using the rate ruling as at 10th December 2016. It is also true that equipment was subsequently delivered to Kisumu on 12th April 2016 and Training on the use of the harvesting system conducted. It is further true that as at the time of audit in December2016, the machine had not been commissioned.

The procurement of the water Hyacinth Harvester System was done through International Competitive bidding (ICB) as per World Bank Procurement guideline. After due tendering process, the contract was awarded to an international supplier, namely Unit Export ltd of Great Britain (UK), and the contract entered into on 18thJuly 2014. An amount equivalent to 90% of the total payments for the equipment was made as per the contract between GoK and the supplier and the contract was guided by the incoterms 2010 governing International trade and World Bank procurement guidelines. Inspection and Acceptance Committee was appointed by the Principal Secretary on 9thMay 2016 and carried out four inspection exercises and the findings were communicated to the supplier for action. However, the supplier failed to take action to date; hence the equipment has not been accepted by GoK. Meanwhile, the GoK is in the process of discussing with the supplier the modalities of concluding this contract amicably, as per attached minutes.

Committee Observations and Findings

The project initiated procurement of the water hyacinth harvester system at a contract price of EURO 680,000 which is equivalent to Ksh.73, 745,252 using the rate ruling as at 10th December 2016. The equipment was subsequently delivered to Kisumu on 12th April 2016 and Training on the use of the harvesting system conducted. However, as at the time of audit in December 2016, the machine had not been commissioned.

Committee Recommendations

There is need for the government and the project financier to conclude the process of handing over and commission the water Hyacinth Harvester System

299. Pending bills

The financial statements indicate that there were pending bills on account of salary top-ups and gratuity amounting to Kshs. 8,619,500. Having incurred these debts in the current year, and in view of the fact that the compensation of employees' payments is 26% above budget, the current years actual payments and the obligation yet to be settled stands at 50% above the budget.

Failure to pay bills in the year they relate to distorts the financial statements for the year and adversely affects the provision of services for the subsequent years, in which they are charged.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Financial Statements indicate that there were pending bills on the account of salary top-ups, gratuity amounting to Kshs. 8,619,500.

It was also true that failure to pay bills in the year they relate will distorts the financial statements for the year and adversely affects the provision of services for the subsequent years.

The pending bills were occasioned by the inadequate budget provision for GOK counterpart funds. The Ministry has since liaised with the National Treasury and the pending bills were cleared in Financial Year 2016/2017. The Ministry has also put in place measures to ensure that bills are paid within the year they are incurred.

Committee Observations and Findings

The Financial Statements indicated that there were pending bills on the account of salary top-ups, gratuity amounting to Kshs. 8,619,500. The pending bills were occasioned by the inadequate budget provision for GOK counterpart funds. The Ministry has since liaised with the National Treasury and the pending bills were cleared in Financial Year 2016/2017.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

MITI MINGI MAISHA BORA: SUPPORT TO FOREST SECTOR REFORM IN KENYA PROGRAMME

Basis for Qualified Opinion

300. Understatement of Government of Kenya Counterpart Funds

The statement of receipts and payments reflects transfer from Government of Kenya received during the period of Kshs. 96,450,000 which is at variance with the supporting schedule figure of Kshs. 101,450,000. The resulting variance of Kshs. 5,000,000 has not been reconciled.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of receipts and payments reflects transfers from Government of Kenya received during the period of Ksh.96, 450,000 which is at variance with the supporting schedule figure of Ksh.101, 450,000 resulting to variance of Ksh.5, 000,000. The schedules have since been reconciled.

Committee Observations and Findings

The statement of receipts and payments reflects transfers from Government of Kenya received during the period of Ksh.96, 450,000 which is at variance with the supporting schedule figure of Ksh.101, 450,000 resulting to variance of Ksh.5, 000,000. The schedules have since been reconciled

Committee Recommendations

The explanation by the Accounting Officer was satisfactorytherefore the matter is resolved.

301. Outstanding Imprest

Included in the imprest balance of Kshs. 1,668,316 as at 30th June 2016 is an amount of Kshs.1,106,571 being outstanding imprest for over two years. This is contrary to the Public Finance Management Act, 2012. Management has not put in place any efforts to recover the imprest now that the project has come to an end.

Submission by Accounting Officer

The accounting officer stated that it was true that included in the imprest balance of Ksh.1,668,316 as at 30th June 2016 is an amount of Ksh.1,106,571 being outstanding imprest for over two years.

The accounting officer stated that

i. Mr. Amos Baikwinga left service on a different matter before clearing the imprest. Efforts are being made to recover the outstanding Kshs. 102,500.00 from him.
ii. Mr. Thomas Makau Lonzi's imprest of Kshs.27, 000.00 was surrendered and thus not outstanding.
iii. Mr. Francis Otieno retired and requested the liability of Kshs. 480,182.00 to be transferred to Mr. Joseph Ondieki Tumbo since he had taken the imprest for the activity.
iv. Mr. Joseph Ondieki Tumbo imprest of Kshs. 480,182.00 and Kshs. 496,889.00 is currently being recovered from him.

Committee Observations and Findings

Included in the imprest balance of Kshs. 1,668,316 as at 30 June 2016 is an amount of Kshs. 1,106,571 being outstanding imprest for over two years.

Committee Recommendations

The Accounting Officer must at all times ensure that imprest are recovered within the stipulated time as provided for in Regulation 93 of the PFM (National Government) Regulations 2015

Other Matter

302. Non-Financial Assets

The project had acquired non-financial assets worth Kshs. 521,079,216 as at 30 June 2016. Paragraph 6:6:4 of the project Agreement states that the physical facilities and assets must be handed over to Kenya Forest Service. However, the project has not maintained a clear list of those assets. It may, therefore, not be possible to ascertain the correctness andcompleteness of the assets of the project at the handing over. Further, no documents were availed for audit verification on the assets acquired during the period with a value of Kshs.38,452,017. In the circumstance, the correctness and completeness on the non-financial assets figure of Kshs.38,542,017 could not be ascertained.

Submission by Accounting Officer

The accounting officer stated that it was true that the project had acquired non-financial assets worth Kshs.521, 079,216 as at 30 June 2016. It is also true that paragraph 6:6:4 of the project Agreement states that the physical facilities and assets must be handed over to Kenya Forest Service. It is also true that the project had not availed a list of those assets.

It was further true that no documents were availed for audit verification on assets acquired during the period with a value of Kshs. 38,452,017.

The accounting officer stated that

i. That the asset register has since been availed to the auditors for verification.
ii. That the documents for non-financial assets for Kshs. 38,542,017 have since been availed to the auditors for verification.
iii. That all the physical facilities/assets are in the custody of the relevant stakeholders which include Kenya forest service; parent Ministry Headquarters, KEFRI and University of Eldoret as per the project agreement.

Committee Observations and Findings

The project had acquired non-financial assets worth Kshs. 521,079,216 as at 30 June 2016. However, the project has not maintained a clear list of those assets. Further, no documents were availed for audit verification on the assets acquired during the period with a value of Kshs. 38,452,017.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

303. Delay in Project Implementation

The programme had a total commitment of Kshs. 2,497,879,230 (US$ 22,707,993) to be utilized within the project period of six years ending 31 December 2015. The amount spent as at 30 June 2016 was Kshs. 1,408,883,942 (US$. 12,557,211) or 55% of the commitment and Kshs. 131,075,079 remaining as un-spent cash in the project account. As a result, the programme may not be able to utilize the remaining Kshs. 1,088,995,288 (US$. 9,271,324) as the project has already closed. Consequently, the Programme's goals and outcomes may not have been realized.

Submission by Accounting Officer

The accounting officer stated that it was true that the programme had a total commitment of Kshs. 2,497,879,230 (US$ 22,707,993) to be utilized within the project period of six years ending 31 December 2015. It is also true that the amount spent as at 30 June 2016 was Kshs. 1,408,883,942 (US$. 12,557,211) or 55% of the commitment and Kshs.131,075,079 remaining as un-spent cash in the project account.

That under-utilization was occasioned by a number of factors:-

i. There was delay in project implementation occasioned by the donor requirement to undertake baseline assessment on good governance in the forest sector before the commencement of the project. This requirement was not in the initial programme document.
ii. Delay in release of government counter-part funds also affected project implementation.
iii. Lengthy procurement process also contributed to low spending.

Committee Observations and Findings

The programme had a total commitment of Kshs. 2,497,879,230 (US$ 22,707,993) to be utilized within the project period of six years ending 31st December 2015. As at 30th June 2016 was Kshs. 1,408,883,942 (US$. 12,557,211) or 55% of the commitment and Kshs. 131,075,079 remaining as un-spent cash in the project account.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

304. Under-Absorption of Project Funds

The following was observed on budget absorption:

Item	**Budget (Kshs)**	**Actual (Kshs)**	**Absorption Rate**
Purchase of goods and services	455,642,240	245,524,526	54%
Compensation to Employees	15,200,000	6,126,688	40%
Acquisition of Assets	70,857,760	38,452,017	54%
Transfers to other Entities	29,500,000	3,700,000	13%
Transfers to other Non-governmental Organizations	10,700,000	6,908,879	65%
Total	**581,900,000**	**300,712,110**	**52%**

The under absorption of funds is likely to hinder the Programme's activities and implementation.

Submission by Accounting Officer

The accounting officer stated that it was true that the following was observed as budget absorption:

This project was purely grant AIA and the other implementing partners received their funding directly from the donor. The overall absorption of funds was at 93%. However, the expenditure above only relates to the component implemented by KFS. The other components relate to the consulting firm NIRAS and partnership project with LUKE (ICFRA).

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

KIMIRA OLUOCH SMALLHOLDER FARM IMPROVEMENT PROJECT (ADF LOAN NO. 2100150012296-KE)

Basis for Qualified Opinion

305. Late Submission of Financial Statements

The Project financial statements for year ended 30 June 2016 were submitted on 15 November 2016 to the Auditor-General, being one and a half months after the statutory deadline of 30 September 2016. Subsequently, the Public Finance Management Act 2012 Section 84 (3) requirement of submission of the financial statement to Auditor- General not later than three months after the end of the financial year was not complied with. Consequently, the management is in breach of the law.

306. Outstanding Imprests and Advances

The financial statements reflect outstanding imprests and advances of Kshs.7,140,650 which include Kshs.5,647,200 that has remained outstanding for over a year without any recovery made in disregard Regulation 93(6) of the Public Finance Management National Regulation, 2015. It has not been possible to confirm whether and if so, when the project will be able to recover the amounts advanced.

307. Pending Bills

Note 7.10 to the financial statements reflects pending bills totaling Kshs.1,203,912,118 as at 30 June 2016, comprising of Kshs.801,604,578 brought forward from prior years for major civil works and Kshs.402,307,540 for minor civil works. An interest on delayed payment of interim payment certificate (IPC) of Kshs. 512,042,891 which represents 64% of the principal amount has been charged and is included in the major civil works principal amount of Kshs. 801,604,578. Consequently, the project has incurred an ineligible expenditure of Kshs. 512,042,891 due to delayed payments of IPC.

308. Stalled Minor Civil Works

During the financial year 2013/2014, the Project entered into 9 contracts with various contractors for construction of in-block irrigation infrastructure in Oluch and Kimira irrigation schemes at a combined contract cost of Kshs. 1,543,034,317.60. The pending bills balance of Kshs.

1,203,912,118 reflected under note 7.10 to the financial statements indicates that only an amount Kshs. 339,122,199 has so far been paid.

However, the project status report as at 30 June 2016 and the subsequent verification of the physical works, confirmed that Lots I and II of the project are complete while concrete lines for Lots III to IX canals remain incomplete. The value of pending works is estimated at Kshs. 481,375,935.45 and covers a combined length of 42.57KM representing about 30% of the total length of 144KM under the contracts. The pending works have been arrived at as follows:

Submission by Accounting Officer

The accounting officer stated that paragraphs 305, 306, 307 and 308 were referred to the relevant Ministry of Water where the project is domiciled.

Committee Observtions and Findings

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

WATER AND SANITATION SERVICES IMPROVEMENT PROJECT – ADDITIONAL FINANCING (IDA NO. 5103-KE) Basis for Qualified Opinion

309. Discrepancy in Donor Income

The statement of receipts and payments reflects donor receipts of Kshs.2,363,789,726 (designated account Kshs.1,423,283,008 and direct payments Kshs.940,506,718) as at 30 June 2016. However, the balance is at variance with the disclosed balance of Kshs. 2,279,199,053 given in note 8.3 Foreign Grants of Kshs 154,998,566 and note 8.4 Loan from External Partners of Kshs. 2,124,200,487. The resulting difference of Kshs. 84,590,673 has not been explained or reconciled. In the circumstances, it has not been possible to confirm the accuracy of the donor income of Kshs.2,363,789,726 as stated in the statement of receipt and payments as at 30 June 2016 as at 30 June 2016. 310. Pending Bills The pending bills figure of Kshs.2,137,328,802 as per note 8.14 is not in agreement with annex 2A balance of Kshs.5,478,831,803 resulting in unexplained difference of Kshs.3,341,503,001. In the circumstance, the accuracy, completeness and propriety of the pending bills balance of Kshs.

2,137,328,802 could not be ascertained.

Submission by Accounting Officer

The accounting officer stated that the issue in question was referred to the relevant Ministry of Water where the project is domiciled.

NAIROBI RIVERS BASIN REHABILITATION AND RESTORATION PROGRAM: SEWERAGE IMPROVEMENT PROJECT

Basis for Qualified Opinion

311. Special Accounts Balances

The special accounts statements for the project reflect Kshs. 29,931,390 (US$. 295,185) withdrawn from the special accounts to the project accounts. However, the project accounts do not reflect any deposits during the year under review. The statement is, therefore, not in agreement with the project account on that item. Consequently, it has not been possible to ascertain the accuracy and completeness of the project account balances as at 30 June, 2016.

Other Matter

312. Under Funding of the Project

The project had projected to receive a total of Kshs. 1,040,000,000 during the period of which Kshs. 920,000,000 was to come from donors and Kshs. 120,000,000 from the Government as counterpart funding. The project received Kshs. 729,295,068 resulting in a deficit of Kshs. 310,704,932 or 30% (Kshs. 299,085,640 from donors and Kshs. 11,519,291 from GOK). This big under-funding will have a negative impact on the project implementation and it may not attain the intended objective. Similarly, the project budgeted to spend Kshs. 1,002,967,000 on civil work but only managed the actual of Kshs. 712,596,169 resulting in a variance of Kshs. 290,370,831. In the circumstances, the Project may not be able to achieve its objectives.

313. Transfer of Assets

Section 5.2(1) of the conditions under the agreement between the Republic of Kenya and African Development Fund states that, the borrower will provide evidence in form and substance acceptable to the Fund that by 31 December 2013 the transfer of assets from Urban Water Supply and Sewerage and City Council of Nairobi to Athi Water Service Board has taken place. As at the time of the Audit, in October 2016, however, the scheduled transfer had not taken place in contravention of the Loan Agreement.

314. Rehabilitation of Kariobangi Waste Water Project

The rehabilitation of Kariobangi Waste Water Project was awarded and signed on 26 January 2015 with expected completion date of 23 July 2016 at a contract sum of Kshs. 155,836,706. As at the time of the audit in October 2016, the project was only at 48% completion. There is a risk that the project will close in December 2016 before the contract is completed.

Submission by Accounting Officer

The matter was referred to the relevant Ministry of Water where the project is domiciled

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

14.0. DEPARTMENT OF WATER AND IRRIGATION

FINANCIAL STATEMENTS FOR VOTE 1102

Mr. Joseph Irungu the Accounting Officer for Vote 1102 and the Principal Secretary State Department ofWater and Irrigation appeared before the Committee on Thursday, 11th October, 2019 to adduce evidence on the audited Financial Statements of Vote 1102 the State Department of Water and Irrigationfor the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following officials:

1. **Mr. Eng.Sao Alima - Water Secretary**
2. **Mr. Musembi Munyao - PC/TMNDP**
3. **Ms. Agnes Waweru - HAU**
4. **Mr. Eng.Simon G. Mwangi - KWSCRP**
5. **Mr. Paul Asele - CE**
6. **Mr. Tom B. Okello - FME-TMWOP**
7. **Mr. Wycliffe Ojukwu - ACCF**
8. **Mr. Daniel Kihara - D.C.F.O**
9. **Mr. Peter Ngari - SCM**
10. **Ms. Caroline Mugwe - DHRMD**

Basis for Qualified Opinion

315. Compensation of Employees

315.1 Unsupported Compensation to Employees on Unrelated Expenses

During the year under review, the Department budgeted to spend Kshs. 760,450,659 on compensation to employees. However, actual expenditure was Kshs. 623,899,166 resulting to an unexplained under expenditure of Kshs. 136,551,493. In addition, the financial statements expenditure balance of Kshs. 623,899,166 is at variance with the general ledger balance of Kshs. 572,104,132 resulting to an unreconciled difference of Kshs. 51,795,043. Further, the Department paid Kshs. 1,730,469 as leave commutation to various members of staff who had already applied for leave and were paid leave allowance. This amounts to double benefits and is contrary to Government Financial Regulations. In addition, included in the employee compensation balance of Kshs. 623,899,166 is an expenditure of Kshs. 4,832,500 relating to meal allowances.

Submission by Accounting Officer

The Accounting Officer stated that it was true that during the year under review the department budgeted to spend Kshs. 760,450,659 on compensation of employees; however the actual expenditure was Kshs. 623,899,166 resulting to an under expenditure of Kshs. 136,551,493 this happened because some of the staff working in the ministry were transferred to the counties before the end of the financial year and drew their salary from the counties they were deployed to.

The variance of Kshs. 51,795,043 between the financial statements balance of Kshs. 623,899,166 and the general ledger balance of Kshs. 572,104,132 was as a result of mis-posting in the IFMIS ledger which was later corrected to read Kshs. 623,899,166.

It was true that there was unrelated expenditure amounting to Kshs. 4,832,500. This anomaly was as a result of mis-posting in the IFMIS General Ledger. This has since been corrected and posted in the relevant accounting code.

Committee Observations and Findings

- **(i) The State Department budgeted to spend Kshs. 760,450,659 on compensation of employees during the FY 2015/206 but spent Kshs. 623,899,166 resulting to an under expenditure of Kshs. 136,551,49. The under expenditure was attributed to some of the staff working in the departmewnt who were transferred to the counties before the end of the financial year and drew their salary from the counties where they were deployed;**
- **(ii) The variance of Kshs. 51,795,043 between the financial statements balance of Kshs. 623,899,166 and the general ledger balance of Kshs. 572,104,132 was as a result of mis-posting in the IFMIS ledger which was later corrected to read Kshs. 623,899,166. Further, the unrelated expenditure amounting to Kshs. 4,832,500 was also as a result of mis-posting in the IFMIS General Ledger; and**
- **(iii)The State Department paid Kshs. 1,730,469 as leave commutation to various members of staff who had already applied for leave and were paid leave allowance. This double payment was not explained to the Committee.**

Committee Recommendations

- **(i) The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that are devoid of IFMIS mis-posting and in compliance with provisions of Section 68(2) of the PFM Act 2012 and presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;**
- **(ii) The EACC should, within three (3) months of adoption of this report, undertake investigationsinto apparent contravention of Regulation 121(3) of the PFM (National Government) 2015 through certification of payroll including payment of Ksh. 1,730,469 as leave commutation to various members of staff who had already applied for leave and were paid leave allowance. This double payment is contrary to the provisions of Section 11(1) of the Public Office Ethics (POE) Act 2003;**
- **(iii)The EACC should, within three (3) months of adoption of this report, investigate all the members of staff who benefited from the double payment of leave allowances contrary to the provisions of Section 11(1) of the POE Act 2003. If found culpable, the money should be recovered from the beneficiaries and in the event it cannot be recovered, the cash should be recovered from the person who occasioned it. 315.2 Improper Expenditure on Employees Seconded to NWCPC**

The Department of Water and Irrigation seconded 423 members of staff to National Water Conservation and Pipeline Corporation (NWCPC) in various core operations, which include drilling, Electro Mechanical, Land Survey and Water Technology. Although the Ministry has explained that the officers were seconded because the Ministry had ceased to implement technical projects attached to Water Boards, it is not clear and the Ministry has not explained why it continues to pay officers who are serving in a statutory body or why the officers cannot be officially absorbed by the institution.

In view of the foregoing, it has not been possible to ascertain the completeness, accuracy and propriety of compensation of employee's expenditure of Kshs. 623,899,166.

Submission by Accounting Officer

The Accounting Officer stated that the employees seconded to NWCPC were to be absorbed by NWCPC as per the transfer plan and staff deployment guidelines issued by the Permanent Secretary (P.S) MWI Vide letter Ref. No. MWR/005A/1/2/41 dated 30th June 2005**.**

During the transition period of one year the Ministry would continue paying them after which they would enter into written contracts of employment with NWCPC according to the terms and conditions of service of the latter.

Over time, there had been reluctance by the Management of NWCPC to heed to various recommendations from the MWI on absorption of the employees as evidenced by a letter Ref. No. MWI/PARAS/10/25A VOL.V/16 dated 17th February 2016.

Since the Corporation had been unable to absorb the employees due to budgetary constraints, devolution and unclear organizational structure and staff establishment the corporation re deployed the employees back to the ministry effective 1st April 2016**.**

Aggrieved employees sought court redress - case No. 515 of 2016 that was determined in 2017 and ordered the employees be redeployed back to the Ministry since the latter had no obligation to absorb them into their establishment. The employees are now absorbed in the ministry as per the court order.

Committee Observations and Findings

- **(i) There was reluctance by the management of National Water Conservation and Pipeline Corporation (NWCPC) to heed to various recommendations from the Ministry of Water to absorb the employees that were seconded from the Ministry as evidenced by a letter Ref. No. MWI/PARAS/10/25A VOL.V/16 dated 17th February 2016;**
- **(ii) The employees who were seconded to NWCPC from the Ministry of Water were not absorbed by the NWCPC and were redeployed back to the Ministry after they sought court redress through Case No. 515 of 2016 that was determined in 2017; and**
- **(iii) The Ministry had justifiable reasons for continued payment of salaries and remunerations to the 423 members of staff who were seconded to National Water Conservation and Pipeline Corporation (NWCPC) in various core operations.**
- **(iv) The Committee marked the matter as resolved.**

316. Grants and Transfers to Other Government Units

The Department of Water and Irrigation had an approved budget for the year under review amounting to Kshs. 9,402,586,213 against actual expenditure of Kshs. 4,346,150,732 thus resulting in under-absorption of Kshs. 5,056,435,481. Further, included in the transfer to Other Government Units balance of Kshs. 4,346,150,732 areunrelated expenses amounting to Kshs. 84,962,260.Therefore, the account is overstated by this amount. In the circumstance, the validity, completeness and accuracy of the transfer to other GovernmentUnits figure of Kshs. 4,346,150,732 could not be ascertained.

Submission by Accounting Officer

It was true that the Department of Water and Irrigation had an approved budget of Kshs.9,402,586,213 against an actual expenditure of Kshs. 4,346,150,732 resulting to an under absorption of Kshs.5,056,435,481.

The GoK component was fully disbursed. The under absorption of Kshs.5,056,435,481 was as a result of Water Service Boards under the ministry not requisitioning for funds allocated to them. This is mainly occasioned by factors such as slow implementation of projects due to long procurement processes on donor funded projects.

During the year under review grants and transfers were budgeted under two accounting codes series (2630000-Transfer to other Government units) and) and (3110000- acquisition of assets). The Kshs.84,962,260 referred to as unrelated expenses was funds budgeted and processed as grants though they were captured under series 3110000.The Ministry noted this error and the anomaly was rectified during the Supplementary Estimates Budget.

Committee Observations and Findings

(i) **The State Department of Water and Irrigation had an approved budget for the year under review amounting to Kshs. 9,402,586,213 against actual expenditure of Kshs. 4,346,150,732 thus resulting in under-absorption of Kshs. 5,056,435,481. The under-absorption was a result of Water Service Boards not requisitioning for funds allocated to them due to factors such slow implementation of projects due to long procurement processes on donor funded projects**; **and**

(ii) **Grants and transfers were budgeted under two accounting codes series (2630000-Transfer to other Government units) and) and (3110000- acquisition of assets). The Kshs.84,962,260 referred to as unrelated expenses was funds budgeted and processed as grants though they were captured under series 3110000.The anomaly was rectified during the Supplementary Estimates Budget**

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved.

317. Acquisition of Assets

The Department had an approved budget of Kshs.30,361,787,774 for acquisition of assets but actual expenditure amounted to Kshs.15,128,739,544 thus resulting in an under-absorption of Kshs.15,233,048,230. However, included in the acquisition of assets balance of Kshs. 15,128,739,544 are unrelated expenses amounting to Kshs. 14,609,109,180. In addition, the Department has not disclosed the summary of its fixed assets register as required. Consequently, the accuracy and completeness of acquisition of assets figure of Kshs. 15,128,739,544 for the Department could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Department of Water and Irrigation had an approved budget of Kshs. 30,361,787,774 for acquisition of assets but had an actual expenditure amounting to Kshs. 15,128,739,544 resulting to under-absorption of Kshs. 15,233,048,230. The under-absorption was occasioned by Water Service Boards in this ministry not requisitioning for funds by submitting Exchequer requisition. It was noted that included in the acquisition of assets balance of Kshs. 15,128,739,544 were unrelated expenses of Kshs. 14,609,109,180 that was occasioned by budgetary capture of grants and transfers under 3110000 item code instead of the correct item code of 2630000.This was however corrected during the Supplementary Estimates budget.

Committee Observations and Findings

(i) The State Department of Water and Irrigation had an approved budget of Kshs. 30,361,787,774 for acquisition of assets but had an actual expenditure amounting to Kshs. 15,128,739,544 resulting to under-absorption of Kshs. 15,233,048,230 which was occasioned by Water Service Boards in this ministry not requisitioning for funds;
(ii) The acquisition of assets balance of Kshs. 15,128,739,544 include unrelated expenses of Kshs. 14,609,109,180 that was occasioned by budgetary capture of grants and transfers under 3110000 item code instead of the correct item code of 2630000.Thiswas however corrected during the Supplementary Estimates budget; and
(iii)The Accounting Officer failed to maintain a fixed asset register for all fixed assets of the State Department contrary to the provisions of Regulation 143(1) of the PFM (National Government) Regulations 2015 which requires that all Accounting Officers should maintain a register of assets under his or her control or possession

Committee Recommendations

The Accounting Officer should be requested to prepare an asset register three months upon adoption of this report and avail to the auditor general for verification. Pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the Accounting should within three (3) months of adoption this report embark on preparing complete assets register which should be availed to the Auditor-General for audit review.

318. Other Grants and Transfers

The Other Grants and Transfers figure of Kshs. 3,338,082 includes unrelated expenditure amounting to Kshs. 2,328,082. The expenditure item is therefore overstated by the same amount. As a result, the accuracy and completeness of the Other Grants and Transfers could not be ascertained.

Submission by Accounting Officer

The accounting officer stated that it was true that other grants and transfers figure of Kshs. 3,328,082 includes unrelated expenditure amounting to Kshs. 2,328,082. This expenditure relates to subscriptions to international organizations which were budgeted under this item.

Committee Observations and Findings

Other grants and transfers figure of Kshs. 3,328,082 includes unrelated expenditure amounting to Kshs. 2,328,082 This expenditure related to subscriptions to international organizations which were budgeted under this item.

Committee Recommendations

The Accounting Officers should at all times ensures that expenditure items are properly classified during budget preparation in line with the Government Financial Statistics (GFS) manual to avoid unnecessary audit queries such as unrelated expenditures.

319. Pending Bills

Pending bills amounting to Kshs. 119,538,431 chargeable to both recurrent and development votes for the Department were not paid in the year 2015/2016 but were instead carried forward to 2016/2017. Had those bills been paid and expenditure charged, the statement of receipts and payments would have reflected a deficit of Kshs. 18,125,884 instead of a surplus of Kshs. 101,412,547 currently reflected. Failure to settle the bills during the year to which they relate distorts the financial statements for that year and adversely affects provisions for the subsequent year to which the bills have to be charged. Further, it is not clear why the pending bills were not paid since the State Department had recorded a surplus of Kshs. 101,412,547 which could have settled a portion of the bills. In addition, contracts and other suppliers' documents relating to the pending bills were not provided for audit verification. In the circumstance, the propriety of the pending bills of Kshs. 119,538,431 could not be ascertained.

Submission by Accounting Officer

The accounting officer stated that it was true that bills amounting to Kshs. 119,534,431 chargeable to both Recurrent and Development for the department were not paid in the year 2015/2016 and carried forward to 2016/2017 financial year. It is also true that in that financial year we had a surplus of Kshs. 101,412,547 under this item.

These pending bills comprises of a large component of historical bills that have accumulated over the years due to budgetary constraints. In the year 2016/2017 the Ministry obtained authority to reallocate Kshs.110 Million from the National Treasury for purposes of paying these pending bills which were authenticated by a Pending Bills Closing Committee in the Ministry. The Ministry was therefore able to clear these pending bills.

Committee Observations and Findings

- **(i) Expenditures amounting to Kshs. 119,534,431 chargeable to both Recurrent and Development for the department were not paid in the year FY 2015/2016 and carried forward to FY 2016/2017. The pending bills were subsequently cleared in the FY 2016/2017 through the National Treasury authority to reallocate Kshs.110 Million for purposes of paying these pending bills; and**
- **(ii) The Accounting Officer did not avail to the auditors, contracts and other suppliers' documents relating to the pending bills for audit verification.**

Committee Recommendations

The Accounting Office should within three (3) months after the adoption of this report avail to the Auditor-General all contracts and other suppliers' documents relating to the pending bills for audit verification.

320. Cash and Cash Equivalents

320.1 Recurrent Account

The cash and cash equivalents balance of Kshs. 89,550,695 includes a recurrent account balance of Kshs. 2,430,299. The bank reconciliation statement for this recurrent account includes Kshs.

372,131,133 reflected as payments in cash book not in bank out of which payments amounting to Kshs. 1,671,638 relate to stale cheques. Management has not disclosed when the remaining balance of Kshs. 370,459,459, was finally paid in the bank. Similarly, a sum of Kshs. 309,354,380 is reflected as receipts in cash book not in bank statement. It has not been explained how the receipts were received in cash book before they were banked, given that the Ministry does not receive cash directly.

Submission by Accounting Officer

The accounting officer stated that it was true that the cash and cash equivalents balance of Kshs. 89,550,695 includes a recurrent account balance of Kshs. 2,430,299. The bank reconciliation statement for this recurrent account includes Kshs. 327,131,133 reflected as payments in cash book not in bank out of which payments amounting to Kshs. 1,671,638 relates to stale cheques.

The Ksh. 372,131,133 was as a result of payments made after the closure of the financial year in July 2016. The stale cheques amounting to Kshs. 1,671,638 were balances brought forward from previous years. These balances were later cleared through the authority of Treasury Old Balance Committee with the concurrence of the Office of the Auditor General.

The balance of Kshs. 370,459,459 was cleared in July 2017 when the payments were cleared in the bank. The Kshs. 309,354,380 referred to as receipts in cash book not in the bank statement comprises of exchequer releases that were received after 30th June 2016 but was reflected in the bank statement in 1st July 2016 after the closure of financial year.

Committee Observations and Findings

The cash and cash equivalents balance of Kshs. 89,550,695 included a recurrent account balance of Kshs. 2,430,299. The bank reconciliation statement for the recurrent account includes Kshs. 327,131,133 reflected as payments in cash book not in bank out of which payments amounting to Kshs. 1,671,638 relates to stale cheques. The Ksh. 372,131,133 was as a result of payments made after the closure of the financial year in July 2016 while the stale cheques amounting to Kshs. 1,671,638 were balances brought forward from previous years.These balances were later cleared through the authority of Treasury Old Balance Committee with the concurrence of the Office of the Auditor General.

Committee Recommendations

The matter was satisfactorily resolved between the Department and the Auditor-General

320.2 Development Account

Development account cash book reflects a balance of Kshs. 14,382,377. However, the related bank reconciliation statement reflects Kshs. 3,673,965,046 being payments in cash book not in bank out of which payments amounting to Kshs. 4,333,667 were stale cheques. Management has not disclosed when the remaining balance of Kshs. 3,673,965,046, was finally paid in the bank. Further, Kshs. 21,775,145 is reflected as payments in bank statement not recorded in cash book. Management has not explained how the payments made in the bank were not posted in the cash book. Further, Kshs. 5,852,420 of those payments relate to 2014/2015 financial year. Similarly, Kshs. 707,299,160 is reflected as receipts in cash book not in bank statement. It has not been explained how receipts were effected in cash book before they were banked, given that the Ministry does not receive cash directly. In the circumstance, it has not been possible to ascertain the validity, completeness and accuracy of the cash and cash equivalents' balance of Kshs. 89,550,695.

Submission by Accounting Officer

The accounting officer stated that it was true that the development account cash book reflects a balance of Kshs. 14,382,377. The bank reconciliation statement reflects Kshs. 3,673,965,046 being payments in cash book not in the bank statement out of which payments amounting to Kshs. 4,333,667 were stale cheques.

The stale cheques amounting to Kshs. 4,333,667 were balances brought forward from previous years. These balances were later cleared through the authority of Treasury old balance committee with the concurrence of the office of the auditor general**.**The balance of Kshs. 3,673,965,046 was cleared in July 2016 when the payments were cleared in the bank.

It was true that there was an amount of Kshs. 21,775,145 which was payments in bank not recorded in the cash book, these payments related to withholding tax and bank charges. This was an anomaly which was later rectified.

Kshs. 5,852,420 relating to payments for the financial year 2014/2015 was cleared through the authority of National Treasury Old Balance Committee with the concurrence of the office of the Auditor General. The amount of Kshs. 707,299,160 referred to as receipts in cash book not in the bank statement comprises of exchequer releases that were received after 30th June 2016 but was reflected in the bank statement in 1st July 2016 after the closure of financial year.

Committee Observations and Findings

- **(i) The development account cash book reflected a balance of Kshs. 14,382,377. The bank reconciliation statement reflected Kshs. 3,673,965,046 being payments in cash book not in the bank statement out of which payments amounting to Kshs. 4,333,667 were stale cheques;**
- **(ii) The stale cheques amounting to Kshs. 4,333,667 were balances brought forward from previous years. These balances were later cleared through the authority of Treasury old balance committee with the concurrence of the office of the auditor general.**
- **(iii)An amount of Kshs. 21,775,145 which was payments in bank not recorded in the cash book related to withholding tax and bank charges. This was an anomaly which was later rectified.**
- **(iv)An amount of Kshs. 5,852,420 relating to payments for the financial year 2014/2015 was cleared through the authority of National Treasury Old Balance Committee with the concurrence of the office of the Auditor General. The amount of Kshs. 707,299,160 referred to as receipts in cash book not in the bank statement comprises of exchequer releases that were received after 30th June 2016 but was reflected in the bank statement in 1st July 2016 after the closure of financial year.**

Committee Recommendations

The matter was satisfactorily resolved between the Department and the Auditor-General

321. Accounts Receivables - Suspense Account

Included in the accounts receivablesbalance of Kshs.1,586,727,901 is an amount of Kshs.1,204,385,626 being suspense and clearance account and Kshs.374,599,452 for other debtors and prepayments which however have not been explained or supported with relevant schedules. In the circumstance, it has not been possible to ascertain the recoverability of the suspense and clearance balance of Kshs. 1,204,385,626.

Submission by Accounting Officer

The Accounting Officer stated that it was true that included in the accounts receivables balance of Kshs.1,586,727,901 is an amount of Kshs.1,204,385,626 being suspense and clearance account and Kshs.374,599,452 for other debtors and prepayments which were not explained.

The outstanding imprests have since been cleared and advances also recovered. Suspense and clearance account are balances from previous years which have since been cleared using authority from National Treasury Old Balances Committee in concurrence with the Auditor General.

Committee Observations and Findings

The accounts receivablesbalance of Kshs.1,586,727,901 is an amount of Kshs.1,204,385,626 being suspense and clearance account and Kshs.374,599,452 for other debtors and prepayments which were not explained. Suspense and clearance account are balances from previous years which have since been cleared using authority from National Treasury Old Balances Committee in concurrence with the Auditor General.

Committee Recommendations

The matter was satisfactorily resolved between the Department and the Auditor-General

322. Irregular Payment for Cabinet Secretary's Vehicle

The State Department purchased a vehicle for the Cabinet Secretary at a cost of Kshs. 7,000,000 contrary to Office of the President Circular Ref No. CAB/56/2A dated 7 July 2011 which prescribes a limit of Kshs. 2,000,000. In the circumstance, the State Department of Water irregularly spent Kshs. 5,000,000.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Cabinet Secretary was entitled to a car allowance of Kshs. 7,000,000 taxable as per the presidential circular Ref. No. CAB/56/2A of 7 July 2011. The Ministry erroneously paid the whole amount of Kshs. 7,000,000 to Toyota Kenya without withholding the 30% tax of Kshs. 2,100,000 which was supposed to be remitted to KRA.

Further efforts are being made to recover this amount from the officer as per the attached correspondences**.**

Committee Observations and Findings

(i) The Accounting Officer purchased a vehicle for the erstwhile Cabinet Secretary at a cost of Kshs. 7,000,000 taxable as per the presidential circular Ref. No. CAB/56/2A of 7 July 2011;

(ii) The Accounting Officer failed to withhold the due 30 percent tax of Kshs. 2,100,000 which was supposed to be remitted to Kenya Revenue Authority.

Committee Recommendations

The Accounting Officer needs to take measure to recover the erroneous payment and remit the tax to KRA within (3) months of adoption of this report, failure to which he should be surcharged.

323. Accounts Payables

The accounts payables' balance of Kshs. 72,738,019 reflected in the statement of financial assets is not supported with a schedule and other supporting documents. Further, the balance includes a sum of Kshs. 33,545,833 due to the Ministry of Agriculture and Fisheries. It is not clear how the Ministry became a creditor for such a big amount. In the foregoing, it has not been possible to ascertain the validity, accuracy and completeness of the accounts payables' balance of Kshs. 72,738,019 outstanding**.**

Submission by Accounting Officers

The accounting officer stated that it was true that accounts payable had a balance of Kshs. 72,738,019 reflected in Statement of Financial assets not supported with a schedule and supporting documents. A schedule was later prepared and submitted to the Auditor for review**.**

The balance of Kshs. 33,545,833 indicated as monies due from the Ministry of Agriculture and Fisheries was a transfer to the Ministry of Water and Irrigation after the split of the two ministries. These funds were meant to cater for staff salaries and creditors that ended up in this ministry following the split.

Committee Observations and Findings

- **(i) Accounts payable had a balance of Kshs. 72,738,019 reflected in statement of financial assets not supported with a schedule and supporting documents. A schedule was later prepared and submitted to the auditor for review; and**
- **(ii) The balance of Kshs. 33,545,833 indicated as monies due from the Ministry of Agriculture and Fisheries was a transfer to the Ministry of Water and Irrigation after the split of the two ministries. These funds were meant to cater for staff salaries and creditors that ended up in this ministry following the split.**

Committee Recommendations

- **(i) The Accounting Officer should ensure that the entity keeps complete financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the complete financial and accounting records including the necessary supporting documents are presented to the Auditor-General within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012; and**
- **(ii) The matter was satisfactorily resolved between the Department and the Auditor-General.**

324. Other Operating Expenses

Other Operating Expenses increased by 900% from Kshs. 11,039,396 in FY 2014/2015 to Kshs. 110,192,116 in the current year. Management has not explained the reason for the disproportionately big increase and as a result, the accuracy and propriety of the expenditure could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that true that operating expenses increased by 900% from Kshs. 11,039,396 in the financial year 2014/2015 to Kshs. 110,192,116 in the current year 2015/2016 according to the comparative figures of the audited financial statements.

The accounts for the financial year 2014/2015 were later revised to reflect the correct amount of Kshs. 316,577,507 that had been erroneously overstated. The comparative figures are therefore Kshs. 316,577,507 and Kshs. 110,577,507. The 900% increase does not therefore exist.

The amount of Kshs. 11,039,396 reflected as operating expenses was actually an amount for fuel, oil and lubricants for the same period.

Committee Observations and Findings

- **(i) Operating expenses increased by 900% from Kshs. 11,039,396 in the FY 2014/2015 to Kshs. 110,192,116 in the FY 2015/2016 according to the comparative figures of the audited financial statements. The amount of Kshs. 11,039,396 reflected as operating expenses was actually an amount for fuel, oil and lubricants for the same period;**
- **(ii) The accounts for the FY 2014/2015 were later revised to reflect the correct amount of Kshs. 316,577,507. The corrected comparative figures are therefore Kshs. 316,577,507 and Kshs. 110,577,507.**

Committee Recommendations

- **(i) The Accounting Officer should ensure that the entity keeps complete financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the complete financial and accounting records including the necessary supporting documents are presented to the Auditor-General within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012; and**
- **(ii) The matter was satisfactorily resolved between the Department and the Auditor-General**

325. Failure to Prepare Project Financial Statements.

The State Department of Water and Irrigation did not prepare and submit financial statements for four projects as required under Article 226 Section 3 of the Constitution of Kenya. The projects were Kenya Italy Debt Project, GIZ Project, UNICEF Project and Output-Based Aid (OBA) Project. Management did not therefore comply with this requirement of the Constitution.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the State Department for Water and Irrigation did not prepare and submit financial statements for four projects as required under article 226 Section 3 of the Constitution of Kenya. The projects were:

- i) Kenya Italy Debt Development Project- the financial statements for this project were later prepared and submitted to the auditor for review**.**
- ii) GIZ, UNICEF and Output-Based aid (OBA) project- are donor funded projects where donors provide technical support to activities within the water sector on need basis.

Previously these projects were not being captured in the printed estimates but this has since been regularized through provision of the relevant allocation in the printed estimates.

Committee Observations and Findings

- **(i) The State Department for Water and Irrigation did not prepare and submit financial statements for four projects as required under Section 81 of the PFM Act 2012. The**

projects were Kenya Italy Debt Project, GIZ Project, UNICEF Project and Output-Based Aid (OBA).

(ii) The Accounting did not explain to the Committee the reasons why the projects were not captured in the printed estimates thereby leading to failure in preparation of the project's financial statements as required by law.

Committee Recommendations

Accounting Officers must all times comply with the provisions of article 226 of the COK 2010, the relevant provisions of the PFM Act 2012, the PFM (National Government) Regulations 2015, and other Government Financial Regulations on preparation of financial statements.

Other Matter

326. Budgetary Control and Performance

326.1 Shortfall of Exchequer Release

The aggregate exchequer release balance of Kshs.16,607,435,406 as at 30 June 2016 was short of the approved budget figure of Kshs.18,694,660,228 leading to an unexplained variance of Kshs.2,087,227,822 as tabulated below:

No.	**Item**	**Budget (Kshs.)**	**Actual (Kshs.)**	**Variance (Kshs)**
1	Recurrent	1,925,849,370	2,053,100,000	127,250,630
2	Development	16,768,810,858	14,554,335,406	2,214,475,452
Total		**18,694,660,228**	**16,607,435,406**	**2,087,224,822**

Submission by Accounting Officer

The Accounting Officer stated that it was true that in the original budget we had an allocation of Kshs. 20,980,817,042. This amount was later reduced by a supplementary budget by an amount of Kshs. 2,286,156,814 resulting to a final budget of Kshs. 18,694,660,228, leading to a variance of Kshs. 2,087,227,882.

Committee Observations and Findings

(i) The State Department had an approved budget allocation of Kshs. 20,980,817,042 which was later reduced through a supplementary budget by an amount of Kshs. 2,286,156,814 resulting to a final budget of Kshs. 18,694,660,228; and

(ii) The aggregate exchequer release for the year was Kshs. Kshs.16,607,435,406 as at 30 June 2016 against the revised approved budget figure of Kshs.18,694,660,228 leading to an unexplained variance of Kshs.2,087,227,822.

Committee Recommendations

The Cabinet Secretary for the National Treasury should, within three months (3) after adoption of this report, put in place a framework to address the budget execution problem of

persistent development budget exchequer release shortfalls that adversely affect implementation of development programmes and projects.

326.1.1 Recurrent and Development Grants

The Department received Kshs.16,607,435,406 as recurrent and development grants against the approved budget of Kshs.18,694,660,228 thus resulting in a underfunding by Kshs.2,087,224,822.

Submission by Accounting Officer

The accounting officer stated that it was true that the department received Kshs. 16,607,435,406 as recurrent and development grants against the approved budget of Kshs. 18,694,660,228 resulting in underfunding by Kshs. 2,087,224,822.

This variance was occasioned by the ministry requisitioning for an exchequer that matched the payments that had been processed and ready for payment during the period under review.

Committee Observations and Findings

The department received Kshs. 16,607,435,406 as recurrent and development grants against the approved budget of Kshs. 18,694,660,228 resulting in underfunding by Kshs. 2,087,224,822.

Committee Recommendations

The Cabinet Secretary for the National Treasury should, within three months (3) after adoption of this report, put in place a framework to address the budget execution problem of persistent development budget exchequer release shortfalls that adversely affect implementation of development programmes and projects. Further, the persistent revenue performance shortfalls should be addressed and realistic expenditure budgets supported by the available resources prepared.

326.2 Under Expenditure

The comparison of budgeted and actual amounts of the Ministry's expenditures for the year under review reflects overall under-expenditure of Kshs. 20,462,904,180 as tabulated;

No.	Item	Budget (Kshs.)	Actual (Kshs.)	Variance (Kshs)
1	Compensation to employees	760,450,659	623,899,166	136,551,493
2	Use of goods and services	342,773,245	309,016,187	33,757,058
3	Transfer to Other Gov't Units	9,402,586,213	4,346,150,732	5,056,435,481
4	Other Grants and Transfers	6,450,000	3,338,082	3,111,918
5	Acquisitions of non-financial Assets	30,361,787,774	15,128,739,544	15,233,048,230
Total		**40,874,047,891**	**20,411,143,711**	**20,462,904,180**

The large under-expenditure balance impacted programmes and service delivery activities planned for the year negatively.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the comparison of budgetary and actual amounts of the ministry's expenditure for the year under review reflects an overall under-expenditure of Kshs. 20,462,904,180 as tabulated;

No.	Item	Budget (Kshs.)	Actual(Kshs.)	Variance(Kshs.)
1.	Compensation to employees	760,540,659	623,899,166	136,551,493
2.	Use of goods and services	342,773,245	309,016,187	33,757,058
3.	Transfer to other Gov't units	9,402,586,213	4,346,150,732	5,056,435,481
4.	Other Grants and Transfers	6,450,000	3,338,082	3,111,918
5.	Acquisition of non-financial Assets	30,361,787,774	15,128,739,544	15,233,048,230
	Total	**40,874,047,891**	**20,411,143,711**	**20,462,904,180**

The bulk of the under- expenditure is under other grants and transfers and acquisition of non-financial assets. These two items are expended through SAGAs. The ministry only requisitions for exchequer from the National Treasury after receiving requests from the SAGAs. The under expenditure was occasioned by slow implementation of programs by the Ministries SAGAs due to slow processing of certificates.

Committee Observations and Findings

(i) **The comparison of budgetary and actual amounts of the ministry's expenditure for the year under review reflects an overall under-expenditure of Kshs. 20,462,904,180 representing budget absorption of approximately 50 percent. The absorption was attributed to slow implementation of programs by the SAGAs under the State Department due to slow processing of certificates; and**

(ii) **The low budget absorption rates especially by SAGAs which are the executors of the development budget should be addressed.**

Committee Recommendations

The Cabinet Secretary, National Treasury should within three (3) months of adoption of this report embark on identification of bottlenecks and propose concrete mechanism to address the persistent challenges faced by the various government entities in absorption of the budget particularly development vote.

327. Weak Internal Control

327.1 Lack of Audit Committee

The State Department of Water and Irrigation has not established an audit committee as required under Section 174(1) of the Public Finance Management Act, 2012. This has constrained the operational independence of the internal auditor.

Submission by Accounting Officer

The accounting officer stated that it was true that in the financial year under review the state department had not established an audit committee as required under section 174(1) of the Public Financial Management Act 2012.

The Ministry has since established an Audit Committee as required under the section 174(1) of the Public Finance Management Act 2012. The Audit Committee positions were advertised and filled competitively as per the Treasury guidelines.

Committee Observations and Findings

The state department had not established an audit committee as required under section 174(1) of the PFM Act 2012. The Ministry has since established an Audit Committee which was filled competitively as per the National Treasury guidelines.

Committee Recommendations

The matter was satisfactorily resolved between the Department and the Auditor-General

327.2 Lack of Segregation of Duties

The Ministry's vehicles records, including work tickets and fuel records, are maintained by drivers. This denotes lack of segregation of duties and contradicts the requirements of Government financial regulations.

Submission by Accounting Officer

The accounting officer stated that the Ministry's vehicles' records including work tickets and fuel records are maintained and kept by the Transport office and are available for inspection.

Committee Recommendations

The Accounting Officer should ensure that there is competent transport officer charge with management of vehicles and not the driver. Further, avail the vehicles' records including work tickets and fuel records which are maintained and kept by the Transport office for audit review.

327.3 Grounded Motor Vehicles

Ten of the Ministry's motor vehicles were at the time of the audit grounded for long periods, for periods of up to two years for some of them, due to various mechanical reasons. Management has not provided good reasons for this undesirable state of affairs.

Submission by Accounting Officer

The accounting officer stated that it was true that ten of the ministry's motor vehicles were at the time of the audit grounded for long periods, some of them for periods of up to two years this was due to budget cuts and high cost of maintenance, the vehicles remained unrepaired for long period of time and this led to the deterioration of the vehicles which made them unserviceable. The process of bonding is ongoing.

Committee Observations and Findings

Ten of the State Department's motor vehicles were at the time of the audit grounded for long periods, some of them for up to two years. This was attributed to budget cuts and high cost of maintenance.

Committee Recommendations

The Accounting Officer should fast-track the process of bonding and constitute a disposal committee to manage the process of disposal of unserviceable vehicles in line with part XIV of the PPAD Act 2015 on disposal of assets.

328. Irregular Secondment of Staff

The department seconded three officers to County Government of Laikipia, Lake Victoria North Water Services Board and Lake Victoria South Water Services Board respectively without following proper procedures. The Officers were getting salaries from both employers contrary to the employment contracts which require them to earn one salary at a time. Consequently, the propriety and value for salaries paid to the officers could not be confirmed to have constituted a proper charge to the public funds.

Submission by Accounting Officer

The officer seconded to the County Government of Laikipia is no longer in our payroll. The ministry has taken action to stop the salaries of the other officers and investigations are being undertaken to verify if the officers are drawing salary from their arrears of secondment.

Committee Observations and Findings

The State Department seconded three officers to County Government of Laikipia, Lake Victoria North Water Services Board and Lake Victoria South Water Services Board who were getting salaries from both employers contrary to the employment contracts which required them to earn one salary at a time.

Committee Recommendations

The EACC should,within three (3) months of adoption of this report, investigate the three members of staff who may have benefited from the double payment of salary and if found culpable charge with improper enrichment contrary to the provisions of Section 11(1) of the POE Act 2003.

DONOR FUNDED PROJECTS

KENYA WATER SECURITY AND CLIMATE RESILIENCE PROJECT- (IDA CREDIT NO. 5268-KE)

Basis for Qualified Opinion

329. Compliance to Project Work Plan Implementation

The project work plan for the year had proposed to carry out eleven (11) activities with an approved budget of Kshs. 425,471,700 all of which were not undertaken. The activities which were not implemented include;

No.	Item	Budget (Kshs)
1	Improved early warning system	35,000,000
2	Nzoia Watershed management Program	66,000,000
3	MOWASCO Institutional Capacity Improved	50,000,000
4	Water supply scoping study (Malewa Dam)	2,000,000
5	Pre-reforms program for MOWI agreed upon	8,753,000
6	Water sector training need assessment	23,454,700
7	Pre-reform consensus action plan	61,510,000
8	Water resource knowledge based improved	36,000,000
9	Procurement and construction of 25 monitoring wells	67,672,000
10	100 RGs procured and Installed	22,220,000
11	Hydro met network	52,862,000
Total		**425,471,700**

In the circumstances, the project implementation will be affected by the unexplained delay.

Submission by Accounting Officer

1) Improved Flood Early Warning System (FEWS)

Though the work plan and budgets were approved, execution of the activity required additional World Bank No-objection as it constituted consultancy and goods procurement. WRMA, the Executing Agency, lacked technical capacity to design the ToR and specifications for the FEWS and it took too long for the World Bank provided Technical Assistance to be availed. This was provide during the year and services procured in the following year when the funds were spent.

2) Nzoia Watershed Management Program

It has been envisaged that procurement and delivery of Consultancy for Physiographic Study, which would guide implementation of the watershed program (identifying hotspots), would have been completed. The consultancy however failed to deliver due to contractual issues which hampered implementation of the watershed activities by WRMA.

3) MOWASCO Institutional Capacity Improvement

This was dependent on turn-around strategy by Mombasa Water and Sewerage Company hinged on established Board of Directors, top management staff and autonomy of the company by the County Government of Mombasa. The county Government had not implemented these requirements in this Financial Year and therefore this activity could not be achieved. In addition the proposals done by junior staff could not reach the threshold of getting No-objection by World Bank for use of the donor funds.

4) Water Supply scoping study for Malewa Dam

The project initially planned this as a scoping study to be done in- house but later got support from the Ministry and World Bank to carry out a full feasibility study through hiring a consulting firm. This meant preparation and approval of ToRs and procurement of the consulting firm rolled over to the financial year 2016-2017 when the firm was procured. The intention of carrying out the scoping study was therefore overtaken by events.

5-7) Reforms

The three activities had initially been planned independently, but were later reconfigured by the Ministry with technical input by the World Bank, to merge in to various consultancies. Hence the 2015-2016 period was spent preparing ToR and procuring international consultancies whose contracts were signed in the financial year 2016-2017 period.

9-11) Water Resources

Implementation of these activities, which are important outputs of the Water Resources Management Authority (WRMA) component, is driven by an Implementation Support Consultant. This was a large international procurement that experienced delays during procurement and negotiation stage (due to tax complications) and the contract was only signed in the financial year 2016-2017. Implementation of these activities has since progressed well.

Committee Observations and Findings

There were delays caused by various reasons in starting the various activities under Kenya Water Security and Climate Resilience Project- (IDA CREDIT NO. 5268-KE). The implementation of the various activities has now started.

Committee Recommendations

The Accounting Officer should closely monitor and fast-track the implementation of the various activities so as to reduce any time and costs overruns.

330. Unsupported Purchases

The project purchased goods and other assets worth Kshs. 25,067,865 from suppliers who were not in the pre-qualified list of supplies contrary to the Public Procurement and Disposal Act, 2005. In the circumstances, the propriety of the expenditure of Kshs. 25,067,865 could not be ascertained.

Submission by Accounting Officer

The accounting officer stated that the project was applying the Public Procurement and Disposal Act (2015) which had come into force 2015-2016 Financial Year. This law does not provide for prequalification of suppliers.

Committee Observations and Findings

The project purchased goods and other assets worth Kshs. 25,067,865 from suppliers who were not in the pre-qualified. According to Section 93 of the PPAD Act 2015 pre-

qualification is not a mandatory requirement except for complex and specialized goods, works and services.

Committee Recommendations

The matter was satisfactorily resolved between the Department and the Auditor-General

331. Unsupported Foreign Travel Expenditure

The project spent Kshs. 20,306,294 in sponsoring a delegation of sixteen officers to Mexico on a short course on design and construction of hydraulic structures. It could not be ascertained how the delegates were identified for the course as most of them did not come from the water section.As a result, the propriety and value for money for the expenditure could not be ascertained.

Submission by Accounting Officer

The Accounting Officerstated that the project financed travel for 16 offices at a cost of KShs 20,306,294.00 for approved exchange visit (not course) to Mexico (World Bank No-objection. These officials who included Members of Parliament (Water Act 2016) were nominated by their respective institutions through which the project activities are implemented, and they are not necessarily water institutions as outlined in the Project Appraisal Document (PAD).

The visit by the Kenyan delegation was aimed at establishing a cooperation focusing on the following:

a) Institutional experience and knowledge
b) Laws, regulations and other legal instruments as well as schemes for enforcing legal precepts/rules
c) Overall architecture and organization of the water sector:
d) Decentralization / devolution processes: a long experience. Lessons learned. Tapping this experience for the benefit of Kenya
e) Bulk water facilities;
f) Water purchase agreements;
g) Institutional arrangements of irrigation schemes
h) Water resources management: technical and administrative
i) Investment programs for water resources infrastructure – water supply, sanitation, irrigation, rain-fed agriculture, flood control, draughts impact mitigation
j) construction approaches, mechanisms and rules for transferring financial resources to states and counties

The participants' professions and numbers were matched to a matrix. Clearly all the participants in this visit (not workshop) were relevant to the water matters in the above bullets.

Clearance for the visit was provided by the World Bank through the No-objection.

Committee Observations and Findings

The project financed travel for 16 offices at a cost of Kshs. 20,306,294.00 for approved exchange visit to Mexico with no objection from the World Bank. These officials who included Members of Parliament were nominated by their respective institutions

Committee Recommendations

The matter was satisfactorily resolved between the Department and the Auditor-General

332. Unsupported Local Travel and Subsistence

The project made payments totaling Kshs. 7,251,266 which were not supported with relevant documents. Further, Kshs. 12,478,400 was paid in cash to nine accountants to carry out a survey whose report was not availed for audit verification. It has not been explained why accountants were paid to carry out the research instead of hiring researchers. Consequently, the propriety of the expenditure of Kshs. 19,729,666 could not be ascertained.

Submission by Accounting Officer

The accounting officer stated that the payment vouchers were approved and cleared since the required documents for surrender were attached. The files with the affected vouchers as listed above are available for verification.

Payment of funds of Kshs. 12,478,400.00 to nine accountants to carryout research

The project undertook research under water resource management component by engaging researchers to carry out pollution and abstraction surveys. These researchers involved officers working outside the ministry. To forestall delays in carrying out the activities and mitigate against the risk of issuing imprest to officer not working in the Ministry, the accountants were mandated to take the imprest based on the approved concept with the list of participants. The lists of attendance were attached to the surrender vouchers.

Committee Observations and Findings

The project made payments totaling Kshs. 7,251,266 which were not supported with relevant documents. Further, Kshs. 12,478,400 was paid in cash to nine accountants to carry out a survey

Committee Recommendations

, The Accounting Officer should, within three (3) months of adoption of this report, avail to the Auditor-General all supporting documents for payments totaling Kshs. 7,251,266 which were not supported and a further Kshs. 12,478,400 which was paid in cash to nine accountants to carry out a survey.

THWAKE MULTI-PURPOSE WATER DEVELOPMENT PROGRAM PHASE 1 (TMWDP)

Basis for Qualified Opinion

333. Project Counterpart Funds Underfunding and Unaccounted for Expenditure

The approved budget for the Project from the counterpart funding was Kshs. 962,000,000 however the actual receipt was Kshs. 847,707,003 resulting in unexplained difference of Kshs. 114,292,997. Further, such underfunding resulted in pending bills of Kshs. 8,981,934. The project cumulative

Government of Kenya Component expenditure is indicated as Kshs. 925,174,872 giving rise to an unaccountedfor expenditure of Kshs. 77,467,869 under the development vote. In the circumstances, the accuracy and propriety of the project expenditure could not be ascertained.

Submission by Accounting Officer

The Program's expenditure for the period financed from the counterpart funds was Kshs. 856,688,936. These were the total invoices received and processed for payment within the period out of the budgetary provision of Kshs. 962,000,000.

The amount processed, paid from the Ministry's Development Bank Account, and accounted for by the Program was Kshs. 847,707,002 with the difference of Kshs. 8,981,934 being unpaid because the exchequer received at the close of the year was insufficient to cover the payments. These pending bills were subsequently paid in the 2017/18 financial year.

The Project cumulative GOK component expenditure accounted for was Kshs. 847,707,002 (and not Kshs. 925,174,872) as there was no expenditure incurred in 2014/15 which was the first year of the Program operations. A schedule of the analysis of the expenditure of Kshs. 847,707,002 incurred as at 30th June 2016 and accounted for in the Annual Report and Financial Statements for the Financial Year ended June 30, 2016.

Committee Observations and Findings

(i) The approved budget for the Project from the counterpart funding was Kshs. 962,000,000. The project cumulative GOK component expenditure accounted for as at 30th June 2016 was Kshs. 847,707,002;

(ii) The pending bills of Kshs. 8,981,934 were because the exchequer received at the close of the year was insufficient to cover the payments. These pending bills were subsequently paid in the 2017/18 financial year.

Committee Recommendations

The matter was satisfactorily resolved between the Department and the Auditor-General

334. Unjustified Additional Geological Investigations

The Project Engineer (Kenya) carried out geological and geotechnical investigations in 2013 before commencement of the project. The geotechnical investigations were relied upon in drawing the project designs. However, the project procured additional geotechnical investigations at a contract sum of Kshs. 39,235,725 during the year under review. Out of the total contract sum, Kshs. 17,067,540 was paid during the year under review. In the circumstances, the project incurred avoidable expenditure of Kshs. 17,067,540.

Submission by Accounting Officer

The accounting officer stated that it was true that the need for additional geological investigations arose as a result of recommendations made by a consultant earlier engaged to evaluate appropriateness of the geotechnical investigations carried out so far. The consultant recommended that more studies be carried out, Summary of previous Studies). This was agreed upon by the co-financier; African Development Bank and the Ministry hence included as payable item in the subsequent contract of Design Review and Supervision of Works.

It was noteworthy that geotechnical investigations for the dam project will also be carried out as necessary during construction of the dam to ensure that the dam foundation is totally water tight.

The study for additional geotechnical investigations was part of the terms of reference for the consultancy for dam design and construction report.

Committee Observations and Findings

(i) The project procured additional geotechnical investigations at a contract sum of Kshs. 39,235,725 during the year under review. Out of the total contract sum, Kshs. 17,067,540 was paid during the year under review; and

(ii) Geotechnical investigations for the dam project will also be carried out as necessary during construction of the dam to ensure that the dam foundation is totally water tight. The study for additional geotechnical investigations was part of the terms of reference for the consultancy for dam design and construction report.

Committee Recommendations

The matter was satisfactorily resolved between the Department and the Auditor-General.

Other Matter

335. Project Land Ownership

As per the project Agreement, Tana Athi Water Services Board should own the land under which the project is implemented. However, the water Act, 2002 requires that such Government Project be owned by National Water Conservation and Pipeline Corporation. Under the current arrangement, Tana Athi Water Services Board will own the land as the Parent Ministry implements and operates the project. The Board will have the asset in its books while the Program revenue will be collected by the Ministry. This will be contrary to the matching concept in accounting and ownership of the land and will not be supported by law.

Submission by Accounting Officer

The Accounting Officer stated that in accordance with the water act 2016 Thwake Dam Project being a National Cross County Project will be managed by a Joint Authority comprising of the National Government and County Governments of the two counties of Makueni and Kitui. Meanwhile a study on the dam management and operation was to be carried out to provide further guidance.

Committee Observations and Findings

In accordance with the water act 2016 Thwake Dam Project being a National Cross County Project will be managed by a Joint Authority comprising of the National Government and County Governments of the two counties of Makueni and Kitui. Meanwhile a study on the dam management and operation was to be carried out to provide further guidance.

Committee Recommendations

The government should, within three (3) months of adoption of this report, complete the process of compensation of land owners fully on the issue of the dam ownerships between the Tana Athi Water Services Board and National Water Conservation and Pipeline Corporation.

UPPER TANA NATURAL RESOURCES MANAGEMENT PROJECT (UTANRMP) IFAD LOAN I-867-KE AND SPANISH TRUST FUND LOAN I-E-8-KE

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this Project

Committee Observations

The Upper Tana Natural Resources Management Project (UTANRMP) IFAD Loan I-867-Ke and Spanish Trust Fund Loan I-E-8-KE received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Project Team for the Upper Tana Natural Resources Management Project (UTANRMP) IFAD Loan I-867-Ke and Spanish Trust Fund Loan I-E-8-KE for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

15.0. MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT

FINANCIAL STATEMEMTS FOR VOTE 1111

Dr. Nicholas Muraguri Mr. Charles Hinga, the Accounting Officers for Vote 1111, Ministry of Lands, Housing and Urban Development appeared before the Committee on 15th January 2019 to adduce evidence on the audited Financial Statements of Vote 1111Ministry of Lands, Housing and Urban Developmentfor the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. They were accompanied bythe following Officials:

1. **Mr. Robert Atera Birundi - Senior Accountant;**
2. **Mr. George M. Obiri - Senior Accountant;**
3. **Ms. Caroline Gacheru - Senior Accountant;**
4. **Mr. Ndung'u Kiarie - Principle Finance Officer;**
5. **Mr. Mark Ogero –Supervisor;**
6. **Mr. Simon Opondo - Ag. Director CSFFD;**
7. **Mr. Esther Mburu - Senior Accountant;**
8. **Mr. Michael Mwendwa – Ass. Director;**
9. **Mr. Stephen Njai - Senior Principal Finance Officer;**
10. **Mr. Martin Mosiria - Chief Finance Officer Housing;**
11. **Mr. Francis M. Kingari - Chief Quality Surveyor;**
12. **Mr. Eustace N. Kithumbu - Senior Assistant Director Lands;**
13. **Ms. Florence Amoit - Secretary Administration; and**
14. **Mr. Cassius Kusienya – Ag. Director Estates**

Basis for Qualified Opinion

336. Inaccuracies in the Financial Statements

336.1 Financial Statements Prepared Outside IFMIS

In the statement of receipts and payments, total receipts and payments are reflected as Kshs.24,869,623,402 and Kshs.24,859,744,892 respectively. However, this amount differs from the amounts in the IFMIS report which gives total receipts and payments as Kshs.24,867,784,937 and Kshs.24,859,543,892 respectively resulting in variances of Kshs.1,838,465 and Kshs.201,000 respectively. Although the Ministry has explained these differences, financial statements have not been amended to reflect IFMIS report figures. In the circumstances, total receipts and payments of Kshs.24,869,623,102 and Kshs.24,859,744,892 respectively reflected in the statement of receipts and payments for the year ended 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that the balances of receipts and payments reported in the financial statements did not tie to the figures in IFMIS.

1. RECEIPTS

He admitted that the Receipts in the Receipts and Payments Statement differs from the amounts in the IFMIS with Kshs.1,838,465. This was occasioned by the following:

i) Tax receipt of Kshs. 1,954,622.

A tax receipt of Kshs.1,954,622.00 which was erroneously posted in IFMIS has since been reversed.

ii) Proceeds From sale of Assets of Kshs.4,449,050.

The Ministry's Appropriation In Aid (A.I.A.) budget was Kshs.13,414,750. At the time of preparing Financial Statement only Kshs.9,414,750.00 had been captured in the IFMIS system resulting in a shortfall of Kshs..4,000,000.The Actual collection of A.I.A was Kshs.13,863,800.00 giving a difference of Kshs.4,449,050.00 represented as uncaptured A.I.A. of Kshs.4.000,000 and excess A.I.A of Kshs.449,050.00.

The Kshs.4,000,000.00 has since been captured in the system. However, the excess AIA of Kshs.449,050 could not be surrendered to the exchequer and was utilized to pay vouchers due to inadequate funding from National Treasury during the year.

iii) Other Receipts of KSH.655,963.

This was an erroneous posting in the IFMIS accounts receivable module which has since been reversed.

Below find the reconciliation between IFMIS and the Financial Statement which now agree.

PARTICULARS	**KSHS.**	
AMOUNT IN IFMIS	**24,867,784,937.00**	
Less Tax receipts erroneously capture	(1,954,622.00)	
LESS other receipts erroneously captured	(655,963.00)	
Add AIA not captured	4,000,000.00	
Add Excess AIA	449,050.00	
Amount as per Financial Statement	**24,869,623,402.00**	

2. PAYMENTS

He admitted that the Payments in the Receipts and Payment Statement differs from the amounts in the IFMIS with Kshs.201,000.00. This was occasioned by the following.

Total Payment difference of KSh. 201,000.

The difference of Kshs 201,000 in the total payments is attributed to discrepancies in the various IFMIS reports on Acquisition of assets. This was a challenge experienced, in all MDAs, with IFIMIS during the year.

He stated that the payment of Kshs.24,859,543,892 reflected in the Financial Statements is the correct.

Committee Observations

(i) The submission by the Accounting Officer that the reconciliations relating to total receipts and payments reflected as Kshs.24,869,623,402 and Kshs.24,859,744,892 have been done was persuasive and the latter position was confirmed by the Auditor General.
(ii) The Committee marked the matter as resolved.

336.2 Summary of Fixed Assets

As previously reported, the financial statements for the year ended 30 June 2016, does not include a summary of fixed assets statement as an annex, contrary to the prescribed reporting template issued by Public Sector Accounting Standards Board of the National Treasury. In the current year, assets amounting to Kshs.16,396,648,085 were procured by the Ministry but an assets register is not maintained to keep track of the assets. In the absence of summary of a fixed assets and assets register, the accuracy of the financial statements remains doubtful. Consequently, it has not been possible to confirm the validity and accuracy of the financial statements for the year ended 30 June 2016.

Submission by Accounting Officer

The Accounting Officer admitted that the Financial Statements did not include summary of fixed assets as an annex contrary to the prescribed reporting template as issued by the Public Sector Accounting Standards Board. The ministry initiated the process of developing a Fixed Asset Register as prescribed in the reporting template and intends to engage a consultant to finalize the compilation of the fixed assets register. He tabled the inventory report for the ministry headquarters.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that the Ministry initiated the process of developing a Fixed Asset Register as prescribed in the reporting template and intends to engage a consultant to finalize the compilation of the fixed assets registerwas persuasive.

(ii) The Committee marked the matter as unresolved pending completion of the development of the fixed asset register.

Committee Recommendations
Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

337. Acquisition of Assets

337.1 Construction of Civil works

Included in the acquisition of assets figure of Kshs.16,396,648,085 for the year ended 30 June 2016 is construction and civil works expenditure of Kshs.9,372,593,987. However, this figure could not be confirmed since stationery amounting to Kshs.534,083,193 was charged to the item for construction of civil works but no authority has been availed for audit review. Further, fuel and automobile repairs amounting to Kshs.13,606,988 was also irregularly charged to construction of civil works while security services and cleaning services amounting to Kshs.13,701,999 and Kshs.5,939,991 respectively were wrongly charged to construction of civil works. In addition, operating system, licenses, computer servers and computer desktops all totalling Kshs.23,349,000 were also charged to construction of civil works. Under the circumstances, it has not been possible to ascertain the accuracy of construction of civil works figure amounting to Kshs.9,372,593,987.

Submission by Accounting Officer

The Accounting Officer admitted that the acquisition of assets figure of Kshs. 16,396,648,045.00 for the Financial Year ended 30th June, 2016 includes Construction and Civil Works amounting to Kshs.9,372,593,987.He further admitted that the item on Construction and Civil Works of Kshs. 9,372,593,987.00 includes the following expenditures which were wrongly charged to the item.

- Stationery amounting to Kshs. 534,083,193
- Fuel and automobile repairs amounting to Kshs.13,606,988.00
- Security Services amounting to Kshs.13,701,999.00
- Cleaning Services amounting to Kshs.5,939,991.00
- Operating Systems, Licenses, Computer Servers and Computer Desktops amounting to Kshs.23,349,000.00

He sought to clarify that that during the Financial Year under review the expenditures were incurred as a result of the following:

- There was a Presidential Direction to fast track the issuance of titles in various field registries around the country. This necessitated the establishment of Crash Programme to actualize the Presidential Directive in most of the field registries with the coordination of the Ministry Headquarter.
- That the expenditure amounting to Kshs.534,083,192.00 on stationery was with the regard of acquisition of lands stationery which is a specialized material aimed at fast tracking the issuance of titles as a result of the Presidential Directive. Please note that the expenditure was incurred when the financial year was at its tail end and the procedures for seeking reallocation were time barred.
- That the expenditures were incurred at a period coinciding with the Ministry's resolve to digitize land records. As a result of digitization, most field registries required minor renovations before rolling out digitization.
- That the expenditure amount to Kshs.13,606,988.00 incurred on fuel and automobile repairs relates to the coordinated supervision of the renovation activities at the field registries and hence explains why they were charged to civil works.
- That expenditure on operating systems, licenses, computer servers and desktops amounting to kshs.23,349,000.00 relates to the acquisition of new desktop computers and the related hardware and software to facilitate the fast tracking of the issuance of titles following the Presidential Directive. This exercise covered many field registries.
- The amount of Kshs. 13,701, 999.00 for security services and Kshs.5,939,991.00 for cleaning services relates to security installation as a result of digitization exercises at the field stations.

Committee Observations

(i) **The submission tabled by the Accounting Officer explaining that the expenditure for stationery amounting to Kshs.534,083,193, charged to the item for construction of civil works following a Presidential Directive to fast track the issuance of titles in various field registries around the country that necessitated the establishment of crash programme to actualize the Directive in most of the field registries with the coordination of the Ministry Headquarter was persuasive. However, no explanation was submitted for failure to provide authorization to charge Kshs.534,083,193, to the item for construction of civil works or audit review.**

(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

The Accounting Officer must, within three (3) months of adoption of this report, provide an explanation to the Cabinet Secretary to the National Treasury for failure to seek authorization to charge Kshs.534,083,193 to the item for construction of civil works contrary to the provisions of sections 197(1)(k) and 68(2)(l) of the Public Finance Management Act, 2012.

337.2 Research, Studies, Project Preparation, Design and Supervision

Included in the acquisition of assets figure of Kshs.16,396,648,085 is research, studies, project preparation, design and supervision figure of Kshs.1,378,912,061 as reflected in note 8 to the financial statements. However, payment vouchers to support an amount of Kshs.44,245,151 were not availed for audit review. In the absence of the payment vouchers and other support documents, the propriety of the expenditure totalling Kshs.44,245,151 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that payment vouchers amounting to 44,245,151 relating to Research, Studies, Project Preparation, Design and Supervision were not availed for audit. He undertook to submit the documents to the auditors.

Committee Observations

(i) **The Accounting Officer admitted that payment vouchers amounting to 44,245,151 relating to Research, Studies, Project Preparation, Design and Supervision were not availed for audit review.**

(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

The Accounting Officer during the period under review should be reprimanded for failure to provide payment vouchers amounting to 44,245,151 relating to Research, Studies, Project Preparation, Design and Supervision were not availed for audit reviewpursuant to the manner provided under section 74(4)(b) of the Public Finance Management Act, 2012.

337.3 Construction of Roads

Included in the acquisition of assets figure of Kshs.16,396,648,085 is construction of roads figure of Kshs.591,395,750. However, included in this figure is an amount of Kshs.123,534,600 which does not relate to road construction. Consequently, the propriety of Kshs.591,395,750 as reflected under note 8 to the financial statements could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that included in the figure for Roads construction is an amount of kshs.123,534,600.00 that is wrongly charged.

Committee Observations

(i) The submission tabled by the Accounting Officer admitting admitted that included in the figure for Roads construction is an amount of kshs.123,534,600.00 that is wrongly charged was insufficient in so far as no explanationindicating whether any steps had been taken to address the propriety of an amount of Kshs.123,534,600 which does not relate to road construction.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The Accounting Officer (during the period under review) must, within three (3) months of adoption of this report, provide an explanation to the Cabinet Secretary to the National Treasury for failure to provide explanation indicating whether any steps had been taken to address the propriety of an amount of Kshs.123,534,600 which does not relate to road construction for audit review contrary to the provisions of sections 197(1)(k) and 68(2)(l) of the Public Finance Management Act, 2012.

337.4 Refurbishment of Building

Included in the acquisition of assets figure of Kshs.16,396,648 is an amount of Kshs.37,797,475 in respect of refurbishment of buildings. However, this figure could not be confirmed due to the fact that Kshs.11,113,689 did not relate to refurbishment of buildings.

Submission by Accounting Officer

The Accounting Officer admitted that included in the figure for refurbishment of buildings is kshs.11,113,869.00 that is wrongly charged.

Committee Observations

(i) The submission tabled by the Accounting Officer admitting admitted that included in the figure for refurbishment of buildings is an amount of kshs11,113,869.00 that is wrongly charged was insufficient in so far as no explanation indicating whether any steps had been taken to address the propriety of an amount of Kshs. 11,113,869.00.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The Accounting Officer (during the period under review) must, within three (3) months of adoption of this report, provide an explanation to the Cabinet Secretary to the National Treasury for failure to provide explanation indicating whether any steps had been taken to address the propriety of an amount of Kshs. 11,113,869.00 which does not relate to refurbishment of buildings for audit review contrary to the provisions of sections 197(1)(k) and 68(2)(l) of the Public Finance Management Act, 2012.

337.5 Construction of Buildings

Included in acquisition of assets figure of Kshs.16,396,648,085 under note 8 is construction of buildings figure of Kshs.1,864,758,824. However, schedules availed for audit review revealed that payments amounting to Kshs.190,787,881.50 did not relate to construction of buildings. In the circumstances, the propriety of construction of buildings figure of Kshs.1,864,758,824 could not be confirmed. In view of the foregoing, it has not been possible to confirm the propriety of acquisition of assets figure of Kshs.16,396,648,085.

Submission by Accounting Officer

He admitted that that included in the figure for construction of buildings is kshs.190,787,881.50 that is wrongly charged.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer admitting admitted that included in the figure for Roads construction is an amount of Kshs.190,787,881.50 that is wrongly charged was insufficient insofar as no explanation indicating whether any steps had been taken to address the propriety of an amount of Kshs.190,787,881.50 which does not relate to road construction.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The Accounting Officer (during the period under review) must, within three (3) months of adoption of this report, provide an explanation to the Cabinet Secretary to the National Treasury for failure to provide explanation indicating whether any steps had been taken to address the propriety of an amount of Kshs.190,787,881.50 which does not relate to road construction of buildings for audit review contrary to the provisions of sections 197(1)(k) and 68(2)(l) of the Public Finance Management Act, 2012.

338. Use of Goods and Services

338.1 Other Operating Expenses

Included in the use of goods and services figure of Kshs.4,392,764,199 is Kshs.2,426,195,889 being other operating expenses reflected in note 5 to the financial statements. However, sampled payment vouchers totalling Kshs.27,027,411 were not availed for audit review. Consequently, the propriety of other operating expense of Kshs.2,426,195,889 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that payment vouchers totaling kshs.27, 027,411 were not availed for audit. He stated that vouchers have been availed for audit.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer, though compelling, should have been availed on time for audit review and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

338.2 Fuel, Oil and Lubricants

Included in the use of goods and services figure of Kshs.4,392,764,199 is an amount of Kshs.38,518,932 in respect of fuel, oil and lubricants. However, out of the sampled payments, vouchers with an amount of Kshs.2,666,973.20 were not availed for audit review. Further, from the sampled vouchers availed for audit review, payments amounting to Kshs.10,728,900 were not related to this expenditure item. Consequently, the propriety of fuel, oil and lubricants figure of Kshs.38,518,932 included under note 5 to the financial statements could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that various payment vouchers worth Kshs.2,666,973.20 were not availed for audit as they had been misfiled. He stated that vouchers have since been availed for audit.He further admitted that payment vouchers for kshs.10,728,900.00 related to maintenance of motor vehicles were charged to fuel, oil and lubricant which is a related item.

Committee Observations and Findings

(i) The submission by the Accounting Officer that payment vouchers worth Kshs.2,666,973.20 were not availed for audit as they had been misfiled and were summited and verified subsequently; payment vouchers for kshs.10,728,900.00 related to maintenance of motor vehicles were charged to fuel, oil and lubricant which is a related item was persuasive and the latter position was confirmed by the Auditor General.

(ii) The Committee marked the matter as resolved.

339. Cash and Cash Equivalents

The Ministry's statement of assets as at 30 June 2016 reflects cash and cash equivalents balance of Kshs.2,089,206,837 which includes deposit account balance of Kshs.2,089,075,580. Included in the deposit bank reconciliation statement were receipts in bank statement that are not in cashbook totalling Kshs.1,015,410,406 which had been outstanding since 3 June 2014. Further, there were payments in bank not recorded in cashbook as well as receipts in cashbook not in bank statement amounting to Kshs.220,854,334 and Kshs.43,232,134 respectively and which had been outstanding since 2013/2014 for which no plausible explanation was offered by the management. In the circumstances, it has not been possible to confirm that the cash and cash equivalents balance of Kshs.2,089,206,837 is fairly stated.

Submission by Accounting Officer

He admitted that the deposit accounts bank reconciliation has an amount of kshs.1,015,410,405.75 as receipts in cashbook not in the bank account. He further admitted that that some receipts have been outstanding since 30th June 2014. He further admitted that the reconciliation also has payments in bank not in cashbook of kshs.220,854,333.80 and receipts in cashbook not in bank of kshs. 43,232,134.25 that has been outstanding since the year 2013/2014. He stated that the reconciliation is ongoing.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that reconciliation of financial statements relating to cash and cash equivalents balance of Kshs.2,089,206,837 was ongoing was not persuasive.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The Accounting Officer must, within three (3) months of adoption of this report, conclude the reconciliation of financial statements relating to cash and cash equivalents balance of Kshs.2,089,206,837 and submit the same for audit review pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.

340. Imprest and Clearance Accounts

The imprest and clearance account balance of Kshs.45,527,100 as at 30 June 2016 is not in agreement with the IFMIS imprest register which has a figure of Kshs.68,108,849 and thus leading to an unreconciled and unexplained difference of Kshs.22,581,749. Further, a schedule provided for audit review to support imprest and clearance account reflects an amount of Kshs.65,390,353 which again is in variance with the amount of Kshs.45,527,100 reflected in the financial statements and hence resulting in an unexplained difference of Kshs.19,863,253. In the circumstances, imprest and clearance accounts balance of Kshs.45,527,100 included in the statement of assets could not be confirmed.

Submission by Accounting Officer

The Accounting Officer admitted that the figure of 45,527,000.00 appearing in the financial statement differs with the figure of 68,108,849.30 appearing in the IFMIS imprest register.

The discrepancies between the IFMIS imprest register and the financial statements were due to shortfalls in the IFMIS system cash management module which was generating conflicting imprest reports. The challenge was also experienced across all MDAs.

The Treasury IFMIS department has since improved the cash management module and there is currently less distortion in the IFMIS generated Imprest reports. He stated that the Imprest figure reported in the Financial Statement is the figure from the Imprest register and is therefore correct.

Committee Observations

(i) The submission by the Accounting Officer that the discrepancies between the IFMIS imprest register and the financial statements were due to shortfalls in the IFMIS system cash management module which was generating conflicting imprest reports was persuasive and the latter position was confirmed by the Auditor General.

(ii) The Committee marked the matter as resolved.

341. Accounts Payables – Deposit

The Accounts Payables – Deposit figure of Kshs.2,089,075,580 as at 30 June 2016 revealed that a construction company was paid Kshs.8,817,157 being retention money in respect of construction of Eldama Ravine Bus Park. However, there was no miscellaneous receipt attached to the payment voucher to confirm that the company was indeed originally deducted the money. Further, the accounts payables – deposit balance of Kshs.2,089,075,580 as reflected in the statement of assets differs from the cashbook balance of Kshs.1,480,819,876 as at 30 June 2016, resulting in an unexplained and unreconciled difference of Kshs.608,255,704. Further, withholding tax amounting to Kshs.230,617,943 which includes figures dating back to 2014/2015 financial year had not been paid to Kenya Revenue Authority as required. Under the circumstances, the balance of accounts payables–deposit of Kshs.2,089,075,580 included in the statement of assets could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that miscellaneous receipts of Kshs.8,817,157 being part of Kshs. 12,583,322.40 for retention monies recovered in respect of Bashash Construction Company Ltd were issued and is supported by certified copies as follows;

No.	Date	M.R. NO	AMOUNT
1.	26-11-2012	4903879	1,747,606.70
2.	07-02-2013	4903975	2,737,837.80
3.	29-04-2013	4903994	4,085,477.00
4.	10-05-2013	4904059	3,429,995.40
5.	06-04-2013	9261513	582,405.50

Copies of the receipts were tabled. He admitted that kshs. 8,817,156.90 was paid to Bashash Construction Company Ltd as retention in respect of the Eldama Ravine Bus Park and no receipt was attached. This is an error and measures have been put in place to ensure that such omissions do not arise.

He further admitted that kshs.2,089,075,579.00 reported in the financial statements differ with the cashbook balance of kshs.1,480,819,876.00 as at 30th June 2016. This was occasioned by some deposit receipts and payments not entered in the cashbook. He reported that the anomaly has since been rectified in the cashbook.

Further receipts in the bank reconciliation includes 230,617,942.85 being withholding tax. He reported that the analysis is on-going and adjustments will be made.

Committee Observations

(i) The submission tabled by the Accounting Officer explaining that the balance of accounts payables–deposit of Kshs.2,089,075,580 included in the statement of assets was ongoing was persuasive.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The Accounting Officer (during the period under review) must,within three (3) months of adoption of this report, conclude the balance of accounts payables–deposit of Kshs.2,089,075,580 included in the statement of assets and submit the same for audit review pursuant to the provisions of section 68(2)(l) of the Public Finance Management Act, 2012.

342. Construction of Stadia

342.1 Construction of Olenguruone Stadium

The Construction of Olenguruone Stadium was awarded to a contractor at a contract sum of Kshs.290,643,668 as per a contract agreement signed on 12 November 2012. The envisaged contract completion period was 104 weeks. However, an audit field inspection carried out in

September, 2016 revealed that the project was not complete and the contractor was not on site. Further, the contractor had been paid a total of Kshs.73,481,130 vide certificate No. 1 and 2. However, comparison between amount paid and work done as per Certificate No. 2 reflected that some work had been paid but not done in respect of bill No. 5 for soccer pitch, running track and internal driveway. In addition, Kshs.6,000,000 had been paid for ground preparation and planting of grass which had not been done by the time of inspection. Further, bill of quantities for excavation and ground preparation was for Kshs.11,253,900 yet the contractor was paid Kshs.33,220,050 occasioning an unexplained overpayment of Kshs.21,966,150 contrary to the contract agreement Clause 3.02 of inspection of site and Clause 3.03 of excavation in trenches. It was also noted that the contract had since expired and no extension was granted and the performance bond for Kshs.14,532,184 dated 27 September, 2012 had expired on 26 December, 2013 but had not been renewed. In addition, the contractor was to buy a new diesel-powered double cabin 4WD vehicle for exclusive use of the project manager at Kshs.2,000,000. The vehicle had to revert back to the employer upon completion of the project. At the time of the inspection, the vehicle was not physically available.

Under the circumstances, the propriety of expenditure totaling Kshs.73,481,130 incurred on the project could not be confirmed and as such the public may not have obtained value for money on this project.

Submission by Accounting Officer

The Accounting Officer stated that the delay in completion of the project was due to:-

i. Delay/lack of exchequer release from the National Treasury during the implementation stage as exemplified below:

Interim Certificate No.	Date certified	Date Honoured	Delay in days
1	24th June 2013	26th Sept. 2014	458 days
2	24th June 2015	7th Dec. 2015	136 days
Total Delay in payments			**594 days**

ii. During the implementation period, the Government transferred devolved functions and correspondence funds to the County Government Olenguruone Stadium being one of them. However, the respective County Government did not take up the function (construction of the stadia) as the contract agreement was signed between the Contractor and the National Government. By the time of devolved funds & functions the Contractor was already on site.

iii. Court injunctions due to land disputes between the then County Council of Nakuru and the private developer. A section of the site was disputed and court injuncted the works.

iv. Movement of the Urban Development department from the then Ministry of Local Government to Ministry of Devolution and Planning in 2013; again to Ministry of Lands in 2014 – 2015 and to the current State Department Housing and Urban Development in 2016. This affected the smooth flow of funds to the project as budgeted funds remain with the mother Ministry.

v. Unprecedented massive earth work (excavations) and extreme adverse weather conditions (i.e. Elnino rains in 2016) affected the smooth progress as more time than it had been envisaged was spent.

Issue:During our field inspection it was noted that the contractor was not on site and the works had stalled.

The Accounting Officer stated that during the time of audit, the Contractor had temporary stopped actual works on site for a period of two weeks due to heavy rains experienced during the time of audit. However, machinery and equipment and security personnel were on site.

Issue:Comparison between certificate No. 2 amount paid and work done revealed that some work had been paid but not executed.

The Accounting Officer submitted that Bill No. 5 soccer pitch, running tracks and internal driveway excavations had been done although Kshs. 6,000,000.00 was paid for ground preparation and planting of grass which had not been done. Further it was noted according to the BOQ excavation and ground preparation total cost was Kshs. 11,253,900.00 but the contractor was paid Kshs 33,220,050.00 thus occasioning unexplained overpayment of Kshs 21,966,150.00 for which is contrary to clause 3.02 inspection of site and 3.03 excavation in trenches.

The Accounting Officer noted that as indicated in the Bill of Quantities No. 5 soccer pitch, running tracks and internal drive way excavations, the amount paid under Item 'D' of the BQ was for ground preparation and not for planting grass. Planting of grass is measured separately under item 'F & G' of the BQ hence no payment was made for planting trees.

Kshs. 11,253,900 was the bill of quantities provision but what was measured and paid for work done was Kshs. 33,220,050 resulting to an increase of Kshs. 21,966,150. The works included excavation for retaining walls, boundary wall and internal drainage.

Additionally, the design had captured the soccer pitch in East to West orientation but when site was handed over, the design was reviewed to change the orientation to North-South as per FIFA requirements necessitating increase in excavation works to attain the desired levels.

NB: In construction, substructure works are classified as provisional because of the unpredictability in determining the extent of such related works, hence the need to subject such works to re-measurement.

Issue: The contract has since expired and no extension was granted. It was also noted that performance bond for Kshs.14,532,184 dated 27th September 2012 had expired on 26Th December 2013 and had not been replaced.

The Accounting Officer stated that the contractor secured the contract up to 8th June 2016 (copy of performance bond)

Issue:The Contractor was to for 1 No. new diesel-powered double cabin 4WD for exclusive use of the Project Manager at Kshs. 2,000,000.00 and reverts to the employer upon completion of the project but by time of this audit the vehicle was not physically availed for verification.

The Accounting Officernoted that to date the contractor has not procured a project vehicle and no payment has been made in respect of the same.

Committee Observations

(i) **The submission tabled by the Accounting Officer explaining that matters relating to the propriety of expenditure totaling Kshs.73,481,130 incurred on construction of Olenguruone Stadium was persuasive. However, no explanation was presented for an unexplained overpayment of Kshs.21,966,150 contrary to the contract agreement Clause 3.02 of inspection of site and Clause 3.03 of excavation in trenches which would have amounted to a variation beyond 50% contrary to section 47 of the Public Procurement and Disposal Act, 2005 and regulation 32 of the Public Procurement and Disposal (National Government) Regulations, 2006 that prohibits the quantityvariationforworksfromexceedingfifteenpercentoftheoriginal contract quantity .**

(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

(i) **The Accounting Officer (during the period under review) must, within three (3) months of adoption of this report, provide an explanation to the Cabinet Secretary to the National Treasury for the overpayment of Kshs.21,966,150 contrary to the contract agreement Clause 3.02 of inspection of site and Clause 3.03 of excavation in trenches which would have amounted to a variation beyond 50% contrary to section 47 of the Public Procurement and Disposal Act, 2005 and regulation 32 of the Public Procurement and Disposal (National Government) Regulations, 2006 for audit review contrary to the provisions of sections 197(1)(k) and 68(2)(l) of the Public Finance Management Act, 2012.**

(ii) **The EACC should, within three months upon adoption of this report, undertake investigations into the overpayment of Kshs.21,966,150 contrary to the contract agreement Clause 3.02 of inspection of site and Clause 3.03 of excavation in trenches which would have amounted to a variation beyond 50% contrary to section 47 of the Public Procurement and Disposal Act, 2005 and regulation 32 of the Public Procurement and Disposal (National Government) Regulations, 2006 with a view to instituting appropriate legal action against any person established to be culpable.**

342.2 Construction of Narok Stadium

A contract to construct Narok Stadium was awarded to a contractor at a contract sum of Kshs.313,676,678 which commenced on 29 May 2013 for a period of 18 months. The envisaged completion date was 28 November, 2014 but which was later revised to 30 June 2015. However, the project had not been completed in spite of a new completion date of 30 June 2015. In addition, scrutiny of the bills of quantities and payments revealed the following:

i. That the contractor was to install three (3) months water tanks with a storage capacity of 2,000 litres each. However, the contractor supplied tanks with a capacity of 1,000 litres.
ii. According to the bill of quantities, the type of timber to be used for roofing was supposed to be cyprus. However, the contractor used pine timber which is cheaper than cyprus timber.
iii. The contractor was to construct manholes as specified in the contract at a cost of Kshs.48,800. However, the contractor was paid Kshs.111,800 occasioning overpayment of Kshs.63,000.
iv. It was agreed that the contractor was to be paid Kshs.2,500,000 for electrical works and installation as per the bill of quantities but was paid Kshs.3,250,000 occasioning an overpayment of Kshs.750,000.

v. The contractor was to do drilling, piping, supply pump and elevate water storage tank $20M^3$ including testing and commissioning of the whole system at a cost of Kshs.3,500,000. However, it was noted that the borehole was drilled but later sealed due to state of water but no piping was done nor pump installed. In addition, the elevated water storage tank installed was $10M^3$ instead of $20M^3$ and the contractor had been paid Kshs.3,000,000 by the time of audit.

vi. The contractor was to undertake landscaping after site clearance, excavation, preparation and leveling of the ground in order to plant grass and trees and to maintain these until maturity at a total cost of Kshs.7,418,660. However, by the time of audit no landscaping had been done although the contractor had been paid an amount of Kshs.7,041,950. No reasons have been given as to why the project has not been completed in time or why various components had not been undertaken to benefit the general public in spite of the contractor having been paid a substantial amount. Consequently, the public may not have obtained value for money from the construction of the Narok Stadium.

Submission by Accounting Officer

In relation to the construction of Narok stadium, the Accounting Officerstated that the completion took long due to cash flow challenges emanating from inadequate and inconsistent exchequer allocation and releases resulting to slow implementation progress. However, he reported that the Project was effectively completed and handed over to the County Government of Narok on 14th December, 2016**.**

The change of capacity of tanks from 2000lts to 1000lts was occasioned by limitations of headroom in ceiling at the offices behind the Dias. Instructions were given by the Project Manager to procure 3 No. 1000lts tanks. The Contractor was paid the amount proportionate to the size and the 2 No. of tanks supplied.

The Contractor was later instructed by the Project Manager to replace pine timber with Cypres as per the attached instructions. The Contractor complied with the instructions.

The Project Manager instructed the Contractor to construct 43 No. manholes instead of 18No. Manholes indicated in the bill of quantities. This was necessitated by the need to accommodate drainage of changing rooms from the Main Dias building to the septic tank. The changing rooms had initially been designed as purely dressing rooms without toilet facilities.

The original cost of Kshs.2, 500,000 for electrical works was a provisional sum subject to adjustments as per the actual work done. The electrical works were later itemized and re-measured and the contractor paid Kshs.3,250,000 reflecting the value of work done at the time as per the attached BQ.

The elevated water storage tank installed was $10M^3$ instead of $20M^3$. The remaining capacity of $10M^3$ was split into 2No. $5M^3$ installed on the rooftop of the ablution block.

The expenditure of Kshs.3Million was for the following activities;

a. Borehole drilling and costing
b. Construction of elevated steel tower installed with $10M^3$ capacity tank
c. Connection application, piping and water reticulation
d. Installation of 2No. $5M^3$ capacity storage tanks and associated works.

The water pump was not installed due to the state of borehole water which was not fit for human consumption and was not paid for.

The contractor was paid Kshs. 7,041,950 for clearing, preparing and leveling the ground ready for grass and tree planting. He submitted that the landscaping constitutes all the activities listed above and by the time of audit, all the said activities had been done.

However, due to prolonged drought during the period the grass and trees earlier planted were affected. The contractor later replanted the grass and trees and the same maintained throughout the defects liability period until they established. The works undertaken include;

i. Site clearance

ii. Excavation works

iii. Preparation, leveling

iv. Red soil and manure application

v. Tree, grass planting and maintenance

Committee Observations and Findings

(i) The submission by the Accounting Officer explaining matters relating to the bills of quantities and payments issued under a contract to construct Narok Stadium was awarded to a contractor at a contract sum of Kshs.313,676,678 which commenced on 29 May 2013 for a period of 18 months was persuasive and the latter position was confirmed by the Auditor General.

(ii) The Committee marked the matter as resolved.

343. Construction of Kenya Industrial Training Institute (KITI), Nakuru Phase IV for the Ministry of Industrialization & Enterprise Development

The Ministry of Lands, Housing & Urban Development undertook a project reference No.W.P. Item No.DGORV/NKU.010/JOB No.6487F on behalf of the Ministry of Industrialization & Enterprise Development. The contract was awarded by the Ministry to Jiku Builders at a contract sum of Kshs.396,597,074 in 2010. The work done and paid for to date as per the documents availed for audit review amounts to Kshs.242,951,347. However, the signed contract agreement between the Ministry and the contractor (Jiku Builders) which contains the terms and conditions of the contract was not availed for audit review. Further, the main contractor, in their letter to the Ministry referenced Jiku/006/2015 dated 25 May 2015, requested for the Ministry's concurrence to enter into sub contract agreement with M/s Modern Precast (K) Ltd citing internal logistical issues among its Directors. There was no evidence to show whether the Ministerial Tender Committee deliberated and authorized the subcontracting of the project. In addition, no details have been availed to show whether the Ministry conducted technical and financial due diligence to determine whether the subcontracted Company had the capacity to carry out the works. Further, a letter to the Permanent Secretary, Ministry of Industrialization and Enterprise Development from the Ministry of Lands and Housing referenced: QD117/General Vol.1/(92) dated 24 November 2015 indicated that, though the original contract sum amounted to Kshs.396,597,074, the anticipated final account was raised to Kshs.469,063,069.03 resulting in a contract variation of Kshs.72,465,995, an equivalent of 18%. No evidence however has been furnished for audit review to show that the Ministerial Tender Committee authorized the contract variation of 18%. In addition, a total amount of Kshs.56,717,578 has been charged by the subcontractor in 2015/2016. Further, it has not been possible to confirm whether the contract between the Ministry and subcontractor (Modern Precast Ltd) is binding. It was also noted that vide letter referenced QD117/General Vol.1/(90), the Ministry of Housing and Urban Development requested the Ministry of Industrialization and Enterprise Development to consider funding the above project by availing Kshs.201,000,000. The Memorandum of Understanding between the two Ministries has however not been availed for audit review. In addition, the approved drawings, site visit meeting minutes and the current status report as well as payment vouchers with certificates detailing all the work done and paid for as per the bills of quantities have not been availed for audit review.

Consequently, it has not been possible to confirm whether there was value for money for the work done and paid for amounting to Kshs.242,951,347.

344. Other Matter

344.1 Budgetary Control and Performance

The Ministry of Lands, Housing and Urban Development had a total budget of Kshs.31,445,183,832 voted for the financial year 2015/2016 comprising of Kshs.27,664,337,690 for development and Kshs.3,780,846,142 for recurrent expenditure. This was an increase of 5% compared to the 2014/2015 financial year's budget of Kshs.29,706,194,169.

The budget absorption was as follows:-

Item	Budgeted allocation 2015/2016 Ksh	Actual 2015/2016 Ksh	Under absorption in %	Absorption Rate	As %of Total
Recurrent	3,780,846,142.00	3,702,494,989.30	78,351,152.70	98.00	14.90
Development	27,664,337,690.00	21,157,249,902.65	6,507,087,787	76.47	85.10
Total	31,445,183,832.00	24,859,744,891.95	**6,585,438,939**	**79.34**	**100.00**

In view of the above, the Ministry failed to utilize funds totaling Kshs.6,585,438,940 out of which Kshs.6,507,087,787 related to development projects. Failure to utilize funds for development undermines development agenda of the Ministry and impacts negatively on service delivery to the citizens.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry had a total budget of kshs 31,445,183,832.00 for the financial year 2015/16 comprising of kshs. 27,664,337,690.00 for development and kshs. 3,780,846,142.00 for recurrent expenditure. It is also true that the ministry spent 24,859,744,891.95 during the year under review and failed to utilize funds totaling to 6,585,438,940.05 out of which kshs. 6,507,087,787.35 related to development projects. This was as a result of lack of exchequer from National treasury.

Committee Observations and Findings

(i) **The submission by the Accounting Officer that the Ministry failed to utilize funds totaling to 6,585,438,940.05 out of which kshs. 6,507,087,787.35 related to development projects as a result of lack of exchequer from National treasury was persuasive.**

(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers should always endeavor to present a realistic budget on recurrent expenditure to ensure prudent, effective, efficient, economical and transparent use of public resources pursuant to the provisions of section 68(1)(b) of the PFM Act, 2012

344.2 Recurrent Expenditure

Of the recurrent budget of Kshs.3, 780,846,142, the following is the budget performance analysis:

Item	Budget	Actuals	(Under Expenditure)/ Excess Expenditure	Under Expenditure/Over Expenditure (%)
Compensation of Employees	2,750,300,000	2,788,630,231.35	(38,330,231.35)	(2%)
Use of goods and services	822,965,640	713,105,239.15	109,860,400.85	14%
Transfers to Other Government Units	158,260,752	160,010,752.00	(1,750,000.00)	(2%)
Other grants and transfers	26,939,248	26,550,826.80	388,421.20	2%
Social Security Benefits	150,000	-	150,000.00	0%
Acquisition of Assets	22,230,502	14,197,940.00	8,032,562.00	37%
TOTALS	**3,780,846,142**	**3,702,494,989.30**	**78,351,152.70**	**2%**

The under expenditure for the recurrent budget was mainly on use of goods and services and acquisition of assets with under expenditure of Kshs.109,860,400, and Kshs.8,032,562 respectively. This is an indication of lack of focus in budget mechanism hence need for proper budgeting process to focus on priority areas for service delivery to Kenyans.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there was an under-expenditure of Kshs.109,860,000.00 under the Recurrent Budget on use of goods and services and Kshs.8,032,562.00 on acquisition of assets.

This under expenditure amounted to 2% of total recurrent allocation and was mainly the money meant for fuel and maintenance of motor vehicles and other equipments which was never utilized due to the austerity measures imposed by the National Treasury on domestic travel.

Committee Observations and Findings

(i) The submission by the Accounting Officer that the reconciliations relating to under expenditure amounted to 2% of total recurrent allocation and was mainly the money meant for fuel and maintenance of motor vehicles and other equipment, which was never utilized due to the austerity measures imposed by the National Treasury on domestic travel was persuasive.

(ii) The Committee marked the matter as resolved.

344.3 Development Expenditure

A total of Kshs.27,664,337,690 was allocated to the Ministry for development during the year ended 30 June 2016. However only Kshs.21,157,249,902 was paid which represents 76% of the funds allocated as detailed below:

Item	**Budget**	**Actuals**	**Under Expenditure**	**Under Expenditure %**
Use of goods and services	3,999,554,386.00	3,679,658,950.65	319,895,435.35	8%
Units	1,850,971,081.00	890,338,237.30	960,632,843.70	52%
Other grants and transfers	211,600,000.00	204,802,569.50	6,797,430.50	4%
Acquisition of Assets	21,602,212,223.00	16,382,450,145.20	5,219,762,077.80	25%
TOTALS	**27,664,337,690.00**	**21,157,249,902.65**	**6,507,087,787.35**	**24%**

Overall, the Ministry did not utilize a total of Kshs.6,507,087,787 representing 24% of the development budget. The management has not explained why more than 24% of the development budget was not utilized. As a result, the citizens did not receive the desired services on the infrastructure that were not implemented resulting in lack of service delivery to the citizens.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry did not utilize a total of Kshs.6,507,087,787 representing 24% of Development budget. The expenditure could not be incurred due to lack of exchequer.

Committee Observations and Findings

(i) The submission by the Accounting Officer that the Ministry did not utilize a total of Kshs.6,507,087,787 representing 24% of Development budget due to lack of exchequer was persuasive.

(ii) The Committee marked the matter as resolved.

345. Pending Bills

As disclosed in Annex 1 to the financial statements, the Ministry of Lands, Housing and Urban Development had total pending bills of Kshs.1,693,351,703 which were not settled as at 30 June 2016 but were carried forward to 2016/2017. Had the bills been paid and the expenditure charged to the account for 2015/2016, the statement of receipts and payments for the year would have reflected a deficit of Kshs.1,683,473,193 instead of the reflected surplus of Kshs.9,878,510 for the year ended 30 June 2016.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the ministry had a total of Kshs.1,693,351,703.19 as pending bills which were not settled as at 30-jun-2016. He stated that this was due to lack of funding from the National Treasury.Further, the accounting officer stated that had the Ministry been funded they would have settled all these bills, as they had a sufficient budget allocation.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer that the ministry had a total of Kshs.1,693,351,703.19 as pending bills which were not settled as at 30-jun-2016 due to lack of funding from the National Treasury was compelling.
(ii) The Committee marked the matter as resolved.

REVENUE STATEMENT

Basis for Disclaimer of Opinion

346. Land Rent Collected by KRA on Behalf of the Ministry

Note 3 to the revenue statement under property income reflects Kshs.1,181,008,564 collected by Kenya Revenue Authority and remitted to the National Treasury as at 30 June 2016. However, as reported previously, the Agency Agreement between the Ministry of Lands, Housing and Urban Development and Kenya Revenue Authority was not availed for audit review for confirmation of specific terms and conditions of the agreement. Further, it was noted that schedules prepared and submitted by the Kenya Revenue Authority in support of the above collection amounted to Kshs.1,201,198,116. The resultant difference of Kshs.20,189,552 between the two sets of records has not been explained or reconciled.

In the circumstances, it has not been possible to confirm the accuracy and validity of the property income collected by KRA amounting to Kshs.1,181,008,564.

Submission by Accounting Officer

The Accounting Officer stated that it was true the Ministry did not avail the agency agreement between the Ministry and KRA on the specific terms and conditions for Land Rent collection. However, as agreed in the Public Accounts Committee (PAC) meeting for the year 2013/2014. KRA under the constitution is mandated to collect revenue on behalf of government.

Further, the Kenya Revenue Authority Act Cap 489 section 5(1) allows the authority under the general supervision of the Minister, to be an agency of the Government for collection and receipt of all revenues. Schedule i, ii and iii of the act enumerates the written laws relating to revenue which KRA is allowed to collects which includes chapter 480 of the Stamp Duty act and chapter 280 of the Government lands act**.**

It was also true that the revenue statement under property income reflects Kshs. 1,181,008,564 as revenue collected by KRA and remitted to the National Treasury as at 30th June 2016. It is also true schedules prepared and submitted by KRA in support of the above collection amount to Kshs. 1,201,198,116 resulting to a difference of Kshs. 20,189,552.

The Revenue statement was prepared by the Ministry using the weekly revenue returns from KRA to the Ministry HQS. The difference of ksh 20,189,552 was a balance which KRA had not submitted to the ministry HQS at the closure the year ending 30th June 2016 consequently causing the under-statement of Kshs. 20,189,552.

Committee Observations

(i) The submission tabled by the Accounting Officer explaining that the Revenue statement was prepared by the Ministry using the weekly revenue returns from KRA to the Ministry HQS and the difference of Kshs 20,189,552 was a balance which KRA had not submitted to the Ministry HQS at the closure the year ending 30th June 2016 consequently causing the under-statement of Kshs. 20,189,552was persuasive. However, no explanation was submitted for failure to submit the Agency Agreement between the Ministry of Lands, Housing and Urban Development and Kenya Revenue Authority for audit review for confirmation of specific terms and conditions of the agreement.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The Accounting Officer (during the period under review) must, within three (3) months of adoption of this report provide an explanation to the Cabinet Secretary to the National Treasury for failure to provide for failure to submit the Agency Agreement between the Ministry of Lands, Housing and Urban Development and Kenya Revenue Authority for audit review for confirmation of specific terms and conditions of the agreement contrary to the provisions of sections 197(1)(k) and 68(2)(l) of the Public Finance Management Act, 2012.

347. Property Income

The revenue statement reflects Kshs.1,418,358,562 as property income for the year ended 30 June 2016. Included in this amount is Kshs.212,842,842 described as rent of Government buildings and housing. However, the Ministry did not provide an updated inventory of all government buildings and houses as at 30 June 2016 and the expected rental income from each house/building. Consequently, it has not been possible to establish whether all rentals due from government buildings and houses was received and accounted for. Further, the Ministry has not explained why there was no revenue collection during the month of August, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the revenue statement reflects Ksh, 1,418,358,562 as property income for the year ended 30th June 2016. It is also true that, included in the statement is Ksh 212,842,842 described as rent of Government buildings and Housing, which was Revenue collected by the ministry on behalf of Government for officers occupying Government houses.

The updated inventory of all buildings and houses and the expected rental income has been availed (soft copy) for verification/audit review. The Ministry received Kshs. 24,738,622.75 during the month of August 2015 and the same transferred to the exchequer**.**

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the updated inventory of all buildings and houses and the expected rental income has been availed for verification/audit review, though persuasive, should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

348. Revenue Transferred to the Exchequer

The revenue statement for the year ended 30 June 2016 shows that Kshs.779,471,911 was transferred to the Exchequer account during the year ended 30 June 2016. Included in this figure is Kshs.197,317,813 being revenue collection from the district registries. However, no breakdown of this figure in form of monthly returns/reports from each district registry has been provided for audit review. Further, it is not clear why monthly revenue analysis provided indicates that no revenue was collected during the months of April, May and June 2016. Consequently, the accuracy and validity of the amount transferred to the exchequer account of Kshs.779,471,911 as shown in the statement of revenue and transfers for the year ended 30 June, 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Revenue Statement for the year ended 30th June 2016 shows Kshs.779,471,911 as revenue transferred to the Exchequer during the year ended 30 June 2016.

It was also true that, included in the figure of Ksh.779,471,911 was Kshs.197,317,813 being revenue collection from the district land registries and whose analysis had not been provided for audit review. The breakdown of the figure has since been provided to the auditors for audit. It was also true analysis for the month of April, May and June 2016 was not provided to the auditors for audit review. This was as a result of omission but the same has since been provided to the auditors for audit.

Committee Observations

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that analysis for the month of April, May and June 2016 was not provided for audit review because of omission but the same has since been provided for audit review,

though persuasive, should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

349. Sales of Goods and Services

Note 4 to the revenue statement for the year ended 30 June 2016 reflects Kshs.480,445,203 for sale of goods and services as at 30 June 2016. Included in this figure is Kshs.420,102,467 described as Other Land Revenue and whose analysis/breakdown has not been provided for audit review. In the absence of this analysis, the figure for sale of goods of Kshs.480,445,203 included in the statement of revenue and transfers for the year ended 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Revenue Statement for the year ended 30th June 2016 reflects Ksh 480,445,203 for Sale of Goods and Services as at 30th June, 2016. It is also true included in the figure of kshs.480,445,203 is Kshs.420,102,467 described as Other Land Revenues whose analysis/breakdown had not been provided for audit. The analysis of Kshs.420,102,467 includes revenue collected from the district land registries and survey offices in the country and have been provided to the auditors for audit.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that of Kshs.420,102,467 includes revenue collected from the district land registries and survey offices in the country has been provided for audit review, though persuasive, should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

350. Unexplained Variance Between the Ministry, Controller of Budget and Treasury Records

Records available reflect that the Ministry of Lands, Housing and Urban Development transferred Kshs.779,471,911 to the exchequer during the year ended 30 June 2016. However, as reported in prior years, records maintained by the Controller of Budget indicate total receipts of Kshs.1,359,908,433 during the period resulting in unexplained or unreconciled variance of Kshs.580,436,521. In addition, Exchequer Returns from the National Treasury indicate total receipts of Kshs.863,806,927 resulting in a variance of Kshs.84,335,016 which has not been explained or reconciled. Consequently, the accuracy and validity of the amount transferred to the exchequer account of Kshs.779,471,911 as shown in the statement of revenue and transfers during the year ended 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry transferred Kshs 779,471,911 to the exchequer during the year ended 30th June 2016.

In the financial year 2015/2016, the Ministry had one revenue collection account at the Central Bank of Kenya for receiving all revenue of the Ministry and for exchequer transfers from the account. The revenue transfers to the exchequer is based on the actual revenue collection to the account and the actual exchequer transfers from the account. The total revenue collection in the account for the year ending 30th June 2015 was Kshs 779,471,911 and the total exchequer transfers was kshs779,471,911 as per the bank statement. We have requested for the details of Kshs 1,359,908,433 and kshs863,806,927 from the Controller of Budget and the National Treasury, respectively for a detailed reconciliation of the figures to establish the correct amount of transfer to the exchequer. Meanwhile soft copy of bank statement has been provided to the auditors for audit.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that the Ministry has requested for the details of Kshs 1,359,908,433 and kshs863,806,927 from the Controller of Budget and the National Treasury, respectively for a detailed reconciliation of the figures to establish the correct amount of transfer to the exchequer and a soft copy of bank statement has been availed for audit review, though persuasive, should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

351. Statement of Arrears of Revenue

The Public Finance Management Act, 2012 Section 82 (2) requires Ministries to prepare statement of arrears and revenue abandoned during the year. However, the statement of arrears in the revenue statements reflect nil balances while the Ministry has arrears especially from rent of Government buildings and houses. Consequently, it has not been possible to ascertain the validity and accuracy of these revenue statements for the year for the year ended 30 June 2016.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the revenue statement did not include arrears of revenue and revenue abandoned.

Committee Observationsand Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that the Ministry had arrears totaling to Kshs. 211,897,152.10 which was inadvertently not disclosed in 2015/16 Financial Year, though persuasive, should have

been submitted to the Auditor General during the subsequent financial year for audit review.**

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

352. Land Rent Revenue Collected at Headquarters

Revenue records reflect that Kshs.24,507,157 was collected at the Ministry's head office. The Ministry uses e-citizen platform software which is system based to collect land rent revenue. A review of the system indicated the following internal control weaknesses:-

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry uses E- Citizen system to collect land rent revenue. Additionally, land rent is also collected by KRA and Ministry Headquarters. The Ksh 24,507,157 was land rent revenue which was collected by the Ministry at the Headquarters and banked. All the receipts and banking in-slips were provided to the auditors for Audit.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer the Ministry uses E-Citizen system to collect land rent revenue and Kshs 24,507,157 was land rent revenue which was collected by the Ministry at the Headquarters and banked, and all the receipts and banking in-slips were provided for audit review, though persuasive, should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they comply with the principles of public finance relating to financial management and fiscal reporting as set out in the management of public resources in compliance with the provisions of Article 201 of the Constitution and the Public Finance Management Act, 2012.

352.1 The source documents such as copy of title deed/lease certificate, demand notice generated by the system indicating the amount of land rent payable and bank deposit slip or proof of payment are not maintained by the department making it difficult to ascertain whether the correct amount was billed or received.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the documents are not maintained/retained by the department because they are already uploaded in the system. Secondly the department does not have sufficient storage space to keep all the documents as they are bulky and very sensitive to be kept away from the owner's custody. Thirdly, if the documents lands in wrong hands they can be used to reproduce fake titles or for other ill- motives or for changing clients' particulars in the system.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that the documents are not maintained/retained by the department because they are already uploaded in the system, the department does not have sufficient storage space to keep all the documents as they are bulky and very sensitive to be kept away from the owner's custody, though persuasive, should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

(i) Accounting Officers must at all times ensure that they comply with the principles of public finance relating to financial management and fiscal reporting as set out in the management of public resources in compliance with the provisions of Article 201 of the Constitution and the Public Finance Management Act, 2012

(ii) Accounting Officers must at all times ensure that they are responsible for the management of the entity's assets in a way which ensures that the national government entity achieves value for money in acquiring, using and disposing of those assets pursuant to the provisions of section 72(1) of the Public Finance Management Act, 2012.

352.2 The users are able to edit existing data about revenue in the system such as date of latest clearance which may affect the amount payable. This compromises the integrity and reliability of the revenue records available. In the circumstances, it has not been possible to confirm the validity, accuracy and completeness of the Kshs.24,507,157 reported as land rent revenue from the Ministry's head office.

Submission by Accounting Officer

The Accounting Officer submitted that the responsibility for editing the system is entrusted only to authorized officers with mandates and functions in the system. Editing can only be done upon confirmation of original document presented by the clients to the authorized officers.

Committee Observationsand Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that the responsibility for editing the system is entrusted only to authorized officers with mandates and functions in the system, can only be done upon confirmation of original document presented by the clients to the authorized officers, though compelling, should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they comply with the principles of public finance relating to financial management and fiscal reporting as set out in the management of

public resources in compliance with the provisions of Article 201 of the Constitution and the Public Finance Management Act, 2012

KENYA SLUM UPGRADING LOW COST HOUSING AND INFRASTRUCTURE TRUST FUND

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this fund.

Committee Observations and Findings

The Committee observes that examination of the Fund falls under the jurisdiction of the Special Funds Accounts Committee pursuant to the provisions of Standing Order 205A of the National Assembly Standing Orders.

STORES AND SERVICE FUND

Basis for Disclaimer of Opinion

353. Inaccuracies in the Financial Statements

The 2015/2016 financial statements presented for audit review reflected the following inaccuracies:

353.1 Cash and Cash Equivalents

Cash and cash equivalent balance brought forward amounts to Kshs.224,744,758 while the prior year audited financial statements reflect a balance of Kshs.224,741,758 thus resulting in an unreconciled or unexplained variance of Kshs.3,000.

353.2 Inventories

The prior year's inventories' balance reflected in the financial statements amounts to Kshs.130,935,583 while the audited closing balance was Kshs.128,342,508 thus resulting in a variance of Kshs.2,593,074 which has not been explained.

353.3 Sale of Goods

The prior year's figure for sale of goods amounts to Kshs.32,321,404 while the audited balance for the account in the year 2014/2015 was Kshs.252,482,245. The resultant difference of Kshs.220,160,841 has not been explained. In addition, the statement of financial performance reflects sale of goods figure of Kshs.96,639,911 as at 30 June 2016 while the statement of cash flows reflects Kshs.90,893,143 thus resulting in an unexplained variance of Kshs.5,746,769.

353.4 Borrowings

The statement of financial position reflects prior-year borrowings totalling Kshs.844,003,247 while the audited statement of financial position as at 30 June 2016 reflects a balance of Kshs.844,003,247 under the Paymaster General (PMG) Account. It is not clear and management has not explained the correlation of the two creditors. In addition, supporting documentation was not presented for audit review.

353.5 Bulk Purchases of Stores

353.5.1 The statement of financial performance for the year-ended 30 June 2016 reflects payment for bulk purchases of stores and fuel of Kshs.120,017,323 while the statement of cash flows reflects a figure of Kshs.76,186,588. The resultant difference of Kshs.43,830,735 has not been explained or reconciled.

In the circumstances, the validity and accuracy of the financial statements for the year ended 30 June 2016 could not be ascertained.

353.5.2 Note 8.4 to the financial statements indicates bulk purchases of stores and fuel of Kshs.82,135,913 and Kshs.37,881,410 respectively. However, schedules provided for audit review reflected balances of Kshs.83,572,057 and Kshs.36,445,266 for stores and fuel resulting in differences of Kshs.1,436,144 and Kshs.1,436,144 respectivelywhich, have not been explained. Further, supporting schedules for purchase of fuel worth Kshs.36,445,226 indicate that the purchase was done in 2014 and therefore does not relate to the year under review. Management has not explained the anomaly. In addition, purchases of fuel during the year amounting to Kshs.13,508,501 was excluded from these financial statements.

Under the circumstances, it has not been possible to confirm the cut-off and accuracy of bulky purchases of stores and fuel balance of Kshs.120,017,323 reflected in the financial statements.

354. Cash and Cash Equivalents

The following anomalies were noted in relation to cash and cash equivalents' balance of Kshs.155,840,626 included in the statement of financial position as at 30 June 2016:

354.1 The cash and cash equivalent balance of Kshs.155,840,626 reflected in the statement of financial position is at variance with the cashbook balance of Kshs.212,993 resulting in an unexplained variance of Kshs.155,627,633.

354.2 Further, no evidence was presented for audit review to confirm that the Fund appointed a Board of Survey at the end of the financial year to verify the actual cash balance of Kshs.117,613 reflected in Note 8.5 (b) to the financial statements.

354.3 The bank reconciliation statement presented for audit review reflects receipts in the bank statement and not in the cashbook of Kshs.90,786 and receipts in the cash book and not in the bank statement of Kshs.499,641. In addition, Kshs.5,387,452 described in the bank reconciliation statement as a cashbook under cast could not be confirmed.

In the circumstances, the validity and accuracy of cash and cash equivalents' balance of Kshs.155,840,626 could not be confirmed.

355. Trade and Other Payables

Trade and other payables from exchange transactions' balance reflected in the statement of financial position as at 30 June 2016 is Kshs.52,994,135. However, supporting schedules reflect a balance of Kshs.51,915,535 thus resulting in a variance of Kshs.1,078,600 which has not been explained or reconciled. Further, records available indicate that other unpaid purchases totaling Kshs.52,280,900 were excluded from the trade and other payables' balance of Kshs.52,994,135 but no reason was given for their omission. Under the circumstances the trade and other payables from exchange transactions balance of Kshs.52,994,135 included in the statement of financial position could not be confirmed.

356. Inventories

The statement of financial position as at 30 June 2016 reflects inventories totaling Kshs.130,121,256. However, the balance could not be confirmed since stock sheets for the year were not presented for audit review. Further, the Fund did not hold a stock taking exercise at the end of the financial year as required. Consequently, the accuracy and validity of the inventories balance of Kshs.130,121,256 reflected in the statement of financial position could not be confirmed.

357. Payment Received in Advance

The statement of financial position as at 30 June 2016 reflects payments received in advance totalling Kshs.149,591,532. However, the dates when the payments were received by the Stores and Services Fund were not presented for audit review. Further, the bank statements were not provided to confirm whether they were indeed received. Under the circumstances, the balance of Kshs.149,591,532 denoted as payments received in advance could not be confirmed.

358. Sale of Goods

The statement of financial performance for the year ended 30 June, 2016 reflects a balance of Kshs.96,639,911 while the supporting schedules presented for audit review reflected a balance Kshs.100,274,267 thus resulting in a difference of Kshs.3,634,356 which has not been explained. In addition, the Fund did not maintain a sales ledger and therefore the source of the sales data could not be confirmed.

359. Missing Receipt Books

The statement of financial performance reflects total revenue of Kshs.96,639,911. However, receipt numbers MR 6654401 to 6654450 dated September 2015 to March 2016 and receipt numbers 6654351 to 6654400 dated April 2016 were not availed for audit review. Further, management has not explained whether revenue collected from May to June 2016 was receipted using official receipts. In the circumstances, the total revenue balance of Kshs.96,639,911 included in the statement of financial performance could not be confirmed.

Committee Observations and Findings

The Committee notes that examination of the Fund falls under the purview of the Special Funds Accounts Committee pursuant to the provisions of Standing Order 205A of the National Assembly Standing Orders

CIVIL SERVANTS HOUSING SCHEME FUND

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this fund.

Committee Observations

The Committee observes that examination of the Fund falls under the purview of the Special Funds Accounts Committee pursuant to the provisions of Standing Order 205A of the National Assembly Standing Orders.

STATE OFFICER HOUSING MORTGAGE SCHEME FUND

Basis for Disclaimer of Opinion

360. Long Term Receivables from Exchange Transactions

Included in the statement of financial position as at 30 June 2016 is long-term receivables from exchange transactions amounting to Kshs.1,499,264,230. This item relates to funds disbursed to state officers under the housing mortgage scheme. Schedules in support of the amount disbursed of Kshs.1,499,264,230 were not availed for audit review.

In the circumstance, it has not been possible to determine the validity and accuracy of the amount of Kshs.1,499,264,230 for long-term receivables from exchange transactions included in the statement of financial position.

Submission by Acounting Officer

The Accounting Officer submitted that the State Department had transferred Kshs.1,500,000,000 to the mortgage service provider (KCB, Saving and Loans Account) as at 30th June, 2016. Of this amount, KCB had recovered Kshs. 735,770 as at 31st March, 2016 (copy attached) and remitted the same amount to the State Officers Housing Scheme Mortgage Fund. The amount in question totaling to Kshs. 1,499,264,230 was still held at the Bank and this reported as long-term receivables from exchange transactions.

Committee Observationsand Findings

The Committee observes that examination of the Fund falls under the purview of the Special Funds Accounts Committee pursuant to the provisions of Standing Order 205A of the National Assembly Standing Orders.

AGRICULTURAL SETTLEMENT FUND TRUSTEES

Basis for Disclaimer of Opinion

361. Property, Plant and Equipment

The Fund's statement of financial position as at 30 June, 2016 reflects a balance of Kshs.7,432,878,660 for non-current Assets. However, schedules for land and buildings, and fixed and loose assets amounting to Kshs.6,176,800,380 and Kshs.38,680,431 respectively were not availed for audit review. Further, the Fund did not maintain a fixed/non-current assets register during the year under review thereby making it difficult to determine whether all the non-current assets were accounted for. In the circumstance, it has not been possible to confirm whether the balance for property, plant and equipment of Kshs.7,432,878,660 included in the statement of financial position is fairly stated.

362. Current Assets

362.1 Receivables from Non-Exchange Transactions

Note 10 to the financial statements reflects receivables from non-exchange transactions' balance of Kshs.784,313,839. The balance has been arrived at after setting off total credit balances of Kshs.2,870,597,100. However, no supporting schedules were availed for audit review in support of these credit balances as was the case in the previous year.

362.2 Unsupported Debit Balances

As reported in the previous year, the statement of financial position as at 30 June 2016 under note 10 (receivables from non-exchange contracts) – current receivables reflected the following balances which had no supporting schedules:-

	Amount (Kshs.)
Land Loans Issued	278,937,099
Development Loan Issued	231,832,877
Rescue Loans Issued	550,019
Other Recoverable Expenses	9,820,460
Billed amounts - settlers	2,957,025,616
Other Debtors -Debtors General	32,352,624
Trade Investment	59,263,387
Advances	10,567,668
Suspense – Debit Items	64,507,005
Agency Accounts (Debits)	257,000
	3,645,113,755

In the circumstance, it has not been possible to determine the validity and accuracy of the receivables from non-exchange transactions' balance of Kshs.784,313,839.

363. Trade and Other Payables from Exchange Transactions

The statement of financial position as at 30 June 2016 under Note 12 to the financial statements reflects trade and other payables from exchange transactions with the following balances and which had no supporting schedules:-

	Amount (Kshs)	
Reserve for Bad Debts	6,602,797	
Other Creditors	3,150,139	
Accrued Interest on Loans	301,500	
Suspense Credit Items	122,806,862	
Fund drawn from Treasury	5,153,814	
	107,598,612	

In the absence of supporting schedules and analysis, it was not possible to ascertain the existence, accuracy and validity of these balances for trade and other payables from exchange transactions amounting to Kshs.14,285,401.

364. Budgetary Control

During the year under review, the Fund did not avail the approved budget for audit review. It was further noted that the financial statements prepared did not include the statement of comparison of budget and actual amounts as required by IPSAS 24 paragraph 14 and the PublicSector Accounting Standards Board approved template. As a result, it could not be confirmed whether the Fund operated within the approved budget.

Submission by Accounting Officer

Par 361 – 364 relates to Agricultural Settlement Fund Trustees.

Committee Observations and Findings

The Committee observes that examination of the Fund falls under the purview of the Special Funds Accounts Committee pursuant to the provisions of Standing Order 205A of the National Assembly Standing Orders.

DONOR FUNDED PROJECTS

KOROGOCHO SLUM UPGRADING PROJECT-KENYA/ITALY DEBT FOR DEVELOPMENT SWAP PROGRAMME (CREDIT NO. CN/1246)

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this Project.

KENYA INFORMAL SETTLEMENTS IMPROVEMENT PROJECT (IDA CREDIT NO 4873-KE)

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this Project.

Committee Observations and Findings

(i) The Kenya Informal Settlements Improvement Project (Ida Credit No 4873-Ke) received an unqualified opinion.

(ii) The Committee commends the Accounting Officer and the team for their strict adherence to the principles and guidelines of public finance management in keeping compliant financial statements.

Other Matter

365. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflect total budgeted expenditure of Kshs.2,446,000,000 against actual expenditure of Kshs.1,641,543,056 resulting in a net budget under utilization of Kshs.804,456,944 or 33% of the total budget as detailed below:-

Category	Final Budget	Actual Amount	Variance	%
	Kshs.	Kshs.	Kshs.	
Purchase of Goods				
and Services	150,000,000	130,749,912	19,250,088	13%
Acquisition of Non-				
Financial Assets	2,096,000,000	1,316,758,241	779,241,759	37%
Transfer to other				
Government Entities	200,000,000	194,034,903	5,965,097	3%
Total	**2,446,000,000**	**1,641,543,056**	**804,456,944**	**33%**

Continued budget underutilization could have adverse effect on planned project activities.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the comparative budget and actual expenditure shows a net budget under utilization of Kshs.804,456,944 or 33% of the total budget.

This was purely due to lack of timely issuance of exchequer hence delaying budgetary execution.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the comparative budget and actual expenditure shows a net budget underutilization of Kshs.804,456,944 or 33% of the total budget due to lack of timely issuance of exchequer hence delaying budgetary execution was satisfactory.

(ii) The Committee marked the matter as resolved.

KENYA MUNICIPAL PROGRAMME (IDA CREDIT NO. 4714-KE)

Basis for Qualified Opinion

366. Outstanding Imprests

As disclosed in Note 8.8c to the financial statements, imprest and advances figure of Kshs.113,884,392 includes outstanding imprest totalling Kshs.4,010,670 due from various officers as at 30 June 2016. Some of the imprests have been outstanding for a long period and their recoverability is uncertain. Although the matter was raised in the previous year's report, no evidence of any efforts being made to recover the long outstanding imprest was availed. Failure to surrender the imprest is contrary to the National Treasury Circular No. 14/2013 dated 19 November 2013 which requires imprest to be surrendered or accounted for within seven working days following return from official journey and Regulation 93(5) of Public Financial Management Regulation, 2015. The management was therefore in breach of the Law.

Submission by Accounting Officer

The imprest of Kshs. 4,010,670 has since been surrendered and accounted for.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that imprest of Kshs. 4,010,670 has since been surrendered and accounted for, though persuasive, should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

367. Construction of Non-Motorized Transport Infrastructure in Thika Town

Included in Note 8.7 to the financial statements under acquisition of non-financial assets figure of Kshs.3,257,404,034 is an amount of Kshs.2,266,831,983 in respect of construction of civil works. The figure of Kshs.2,266,831,983 also includes Kshs.630,621,897 being contract sum for construction of non-motorized transport infrastructure in Thika Town. The contract commenced on 29 October 2014 for construction period of 12 months. Although available records indicate that there was an interim extension of 3 months with effect from 14 March 2016, the project was incomplete as at the time of audit inspection in August 2016. The project was, therefore, behind schedule and management has not explained if and when the project will be completed. In the circumstance, it has not been possible to confirm whether the Program will achieve its mandate.

Submission by Accounting Officer

The Accounting Officer submitted that the delay in completion of the project was due to change of design and scope and relocation of services/street lights by the Kenya Power. The Project has since been completed.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the delay in completion of the project was due to change of design and scope and relocation of services/street lights by the Kenya Power and has since been completed was satisfactory.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

368. Loan from External Development Partners

The special account statement of Kenya Municipal Programme CR.NO.4714-KE for the year ended 30 June 2016 shows that during the year under review, USD 28,652,819 equivalent to Kshs.2,964,098,379 was withdrawn from the special account to finance project activities.

However, this amount differs with the figure of Kshs.2,961,403,900 reflected in the Project's statement of receipts and payments by unexplained /unreconciled variance of Kshs.2,694,479.

In the circumstances, it has not been possible to confirm the correctness and accuracy of the receipts from external development partners figure of Kshs.2,961,403,900.

Submission by Accounting Officer

The amount of Kshs.2,694,479 is the difference between the amount withdrawn from the project special account to the National Treasury and actual expenditure under KMP as tabulated below:

Amount disbursed from special account	-	Kshs.2,964,098,379
Amount utilized under KMP	-	Kshs.2,961,403,900
Variation	**-**	**Kshs.2,694,479**

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining,amount of Kshs.2,694,479 is the difference between the amount withdrawn from the project special account to the National Treasury and actual expenditure under KMP, though persuasive, should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

NAIROBI METROPOLITAN SERVICES IMPROVEMENT PROJECT - (CREDIT NO.5102-KE)

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this Project.

Committee Observations and Findings

(i) The Nairobi Metropolitan Services Improvement Project received an unqualified opinion.

(ii) The Committee commends the Accounting Officer and the team at the Nairobi Metropolitan Services Improvement Project for their strict adherence to the principles and guidelines of public finance management in keeping compliant financial statements.

16.0. MINISTRY OF INFORMATION, COMMUNICATIONS AND TECHNOLOGY

FINANCIAL STATEMENTS FOR VOTE 1121

Mr. Victor Kyalo, the Accounting Officer accompanied by Sammy Itemere; Principal Secretary Broadcasting Technology, Mr. Henry Mung'asia, Director Administration; Mr. David Jakaiti; Secretary Administration, Frederick Owiti; HSCMS, Sally Washiko; Personal Assistant to Principal Secretary Broadcasting Technology, Mr. Gwaro Ogaro; Acting Director Information, Mr. Vincent Luke Kirwa; SAAG, Ms. Sephone Ombachi; SPFO, Ms. Jane M. Musundi; SPF and Mr. Christopher Maina; Principal Legal Officer appeared before the Committee on 15th March 2018, to adduce evidence on the audited Financial Statements of Vote 1121 Ministry of Information and Technology for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report.

Basis for Qualified Opinion

369. Accounts Receivables – Outstanding Imprest

As disclosed in note 14 to the financial statements, the accounts receivables balance of Kshs.52,172,575 include a suspense and clearance figure of Kshs.47,525,728 whose nature and supporting analysis was not availed for audit review. The accounts receivables balance also includes temporary imprests totaling Kshs.2,972,251 due from various officers some of which date back to August 2015. This is contrary to Regulation 93(5) of the Public Finance Management Regulations 2015 which required that a holder of temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station. The Ministry was therefore in breach of the law.

In the circumstances, it has not been possible to confirm that the accounts receivables balance of Kshs.52,172,575 was fairly stated.

Submission by Accounting Officer

The Accounting Officer stated that the outstanding imprests include imprests issued for journeys that went beyond the close of the financial year 30th June, However, some of the officers have since provided surrender documents and recoveries are being made by human resource against those that have not. The imprest outstanding due by Honorable MP brought forward from previous years was excluded from the outstanding imprests because he provided documentation for surrender of the same; it was therefore not prudent for us to continue showing it as outstanding.

It was true that the Ministry engaged worker. The engagement was necessitated by workforce need in various departments of the Ministry which were incapacitated due to lack of staff.

It was an inadvertent oversight on the part of the Ministry to have retained the workers. The casuals have since been terminated and paid.

The Ministry did maintain attendance registers in respective departments and they are available for audit verification to confirm the employment and payment of the casuals.

The assigning of IFMIS numbers came about from a policy directive that no payments should be made outside the IFMIS system.

Committee Observations and Findings

(i) The Committee observed that the outstanding imprests included imprests issued for journeys that went beyond the close of the financial year 30th June and some of the officers have since provided surrender documents.
(ii) The matter has been cleared by the office of the Auditor General.

Committee Recommendations

Accounting Officers must at all times ensure that they adhere to the regime regulating issuance and recovery of imprest pursuant to the provisions of Regulation 93 of the Public Finance Management Regulations, 2015.

370. Partitioning and Refurbishment work to 9 and 11 floors Tele Posta Towers

The Ministry, through restricted tendering awarded a tender for partitioning and refurbishment of 9 and 10 floors of Tele Posta Towers to the lowest evaluated bidder at a contract sum of Kshs.12,720,769. The tender was however awarded contrary to Section 29(3) of the Public Procurement and Disposal Act, 2005 on use of restricted tendering which requires the entity to: -

i. Obtain written approval of its tender committee; and
ii. Record in writing the reasons for using the alternative procurement procedure.

Further, Section 73(2) of the Public procurement and Disposal Act 2005 provides that a procurement entity may use restricted tendering if the following conditions are satisfied:-

a) Competition for contract, because of the complex or specialized nature of the goods, works or services is limited to prequalified contractors;
b) The time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured; and
c) There is only a few known suppliers of the goods, works or services as may be prescribed in the regulation.

In addition, the contract price was varied by Kshs.2,819,786representing 22.16% of the contract sum which is over 15% allowable in the procurement laws. Further, the contract duration was varied from sixteen (16) weeks to twenty-two (22) weeks with completion date being 13 August 2015. However, available information indicates that the project was completed and handed over on 7 January 2017 seventy-seven (77) weeks later. This was done in breach of Public Procurement and Disposal Regulation 2006 Section 31 which provides that for the purposes of Section 47(b) of the Act, any variation of a contract shall be effective only if the price or quantity variation is to be executed within the period of the contract.

Perusal of the bill of quantities indicates that the following was included of which no documentary evidence was provided for audit verification to show how the amounts were spent:-

Kshs
Provide for project management expenses 200,000
Provide for contingencies 500,000
Preliminary expenses 400,000
TOTAL 1,100,000

The ministry was therefore in breach of the public procurement law and regulations thereby casting doubts as to whether the citizens obtained value for money.

Submission by Accounting Officer

The Accounting Officer submitted that tax compliance is among the mandatory requirements which all prequalified or participating tenderers are obligated to provide during bid submission. Therefore, failure by some firms to provide proof of tax compliance formed a reasonable basis to disqualify them.

The choice of this procurement method was justified under clause 72(b) of the Act on account of the shorter time it was to take to procure a contractor to carry out the floor tiling at Uchumi House as the Staff from the Directorate Information were awaiting to be accommodated having been evicted from their previous offices at Jogoo House. The preferred open Tender method will have taken quite some time to complete. Secondly, the expenditure on the subject procurement of Kshs 4,850,203.60 falls within the right procurement thresholds as set out in the First Schedule of PP&DA Regulation 53(2) of 2006. Under open tender, the preferred method of procurement requires that the minimum expenditure be Kshs.6, 000,000 and above.

The Tender Committee's approval to use restricted tender and the proposed names was obtained under MTC Minute No.04/20/2014-2015 held on 12th June 2015. The above reason and the approval granted by MTC informed the process of procuring the contractor.

The variation amounting to Kshs 2,819,786 was justified on account of changes in design which were requested bythe Ministry thus occasioning inclusion of assorted items which were not in the Bill of Quantities. MTC deliberated on the subject variation and extension of contract period and approved the same at its meeting No.15/2015-2016 held on 16th May, 2016. The variation of 22.16% approved by MTC is within the allowable maximum of 25%.

The contingencies provided were largely consumed by increased scopes of works in the Bill of Quantities and management expenses were utilized on managing the project.

Committee Observations and Findings

- **(i) The Committee observed that the preferred open Tender method will have taken quite some time to complete and that is why restricted tender method was used.**
- **(ii) The contingencies provided were largely consumed by increased scopes of works in the Bill of Quantities and management expenses were utilized on managing the project.**
- **(iii) The Ministry still hasn't provided evidence on how Ksh 1, 149,796.40 was utilized**
- **(iv) The committee marked the matter as unresolved.**

Committee Recommendations

The committee recommends that the Ministry should provide the evidence on how Ksh 1, 149,796.40 was utilized three months after the adoption of this report.

371. Tender for Renovation and Refurbishment Works on the Ministry's Stand- Nairobi Show Ground

The Ministry through restricted tendering awarded the tender to renovate and refurbish its stand at the Nairobi Show Ground to the lowest evaluated bidder at a cost of Kshs.5,472,730. The tender was however awarded contrary to section 29(3) of the Public Procurement and Disposal Act, 2005 on use of restricted tendering which requires the entity to:-

i. Obtain the written approval of its tender committee and
ii. Record in writing the reasons for using the alternative procurement procedure.

Further, Section 73(2) of the Public procurement and Disposal Act, 2005 provides that a procurement entity may use restricted tendering if competition for contract, because of the complex or specialized nature of the goods, works or services was limited to prequalified contractors; the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured and that there was only a few known suppliers of the goods, works or services as may be prescribed in the regulations.

In addition, examination of the bill of quantities indicated that the following items were included in the bill of quantities but no supporting documents were provided for audit verification:

Kshs
Project management stationery and expenses 250,000
Allow for contractor’s profits and overheads 10% 25,000
Insurance for employees 50,000
Allow for electrical works 500,000
Allow for drainage and mechanical works 800,000
Allow for landscaping 500,000
Allow for contingencies 300,000
Total 2,425,000

Although the contract was to be for a duration of six (6) weeks, no minutes to show the date when the contractor took possession of the site, the commencement and completion dates and whether site inspections were being carried out were availed for audit review.

In the circumstances, it has not been possible to ascertain if the work was completed within the contract period and the propriety of expenditure totaling Kshs.5,472,730 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that as at the bid submission date of 31st August 2015, their tax compliance certificate was still valid. It expired on 1st September 2015. It was true that restricted tender was used and was approved by MTC through Minute No.03/20/2014-2015 held on 11th September, 2015. The State Department of Public Works provided certificate of practical completion of the project. The certificate of completion included utilization of the identified provisional sums.

Committee Observations and Findings

(i) The Committee observed that there were no minutes to show the date when the contractor took possession of the site, the commencement and completion dates and whether site inspections being carried out were availed for audit review.

(ii) The State Department of Public Works was yet to provide more information for verification by the Office of the Auditor General.

(iii)The committee marked the matter as unresolved.

Committee Recommendations

The Ministry should liaise with the Office of the Auditor General to resolve the issue after verification of the missing information.

372. Tender for Tilling Works to the Department of Information at Uchumi House

The Ministry through restricted tendering awarded a contract for tilling works at the Department of Information at Uchumi House 5 floor to the lowest bidder at a cost of Kshs.4,850,204. The contract was however awarded contrary to Section 29 (3) of the Public Procurement and Disposal Act, 2005 on use of restricted tendering which requires the entity to:-

i. Obtains written approval of its tender committee and
ii. Record in writing the reasons for using the alternative procurement procedure.

Further, Section 73(2) of the Public Procurement and Disposal Act, 2005 provides that a procurement entity may use restricted tendering if competition for contract, because of the complex or specialized nature of the goods, works or services was limited to prequalified contractors; the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured, and there was only a few known suppliers of the goods, works or services as may be prescribed in the regulation.

In view of the above, the Ministry was in breach of the law and value for money could not be established.

Submission by Accounting Officer

The choice of this procurement method was justified under clause 72(b) of the Act on account of the shorter time it was to take to procure a contractor to carry out the floor tiling at Uchumi House as the Staff from the Directorate Information were awaiting to be accommodated having been evicted from their previous offices at Jogoo House. The preferred open Tender method will have taken quite some time to complete. Secondly, the expenditure on the subject procurement of Kshs 4,850,203.60 falls within the right procurement thresholds as set out in the First Schedule of PP&DA Regulation 53(2) of 2006. Under open tender, the preferred method of procurement requires that the minimum expenditure be Kshs.6, 000,000 and above.

The Tender Committee's approval to use restricted tender and the proposed names was obtained under MTC MinuteNo.04/20/2014-2015 held on 12th June 2015. The above reason and the approval granted by MTC informed the process of procuring the contractor.

Committee Observations and Findings

(i) The committee observed that the contract was awarded contrary to Section 29 (3) of the Public Procurement and Disposal Act, 2005 on use of restricted tendering.
(ii) The justification to use restricted tender is under clause 72(b) of the Act on account of the shorter time it was to take to procure a contractor as the Staff from the Directorate Information were awaiting to be accommodated after being evicted from their previous offices at Jogoo House.
(iii)The committee marked the matter as resolved.

373. Unresolved Prior Year Matters

373.1 Legal fees

As previously reported, information available at the Ministry indicated that on 18 September 2006 the Government of Kenya was sued in the High Court of Justice (Queens Bench Division) England on Anglo leasing related contracts. The Ministry of Information, Communications and Technology with the authority of the Attorney General single sourced and appointed a law firm to represent the Ministry in the High Court of Justice (Queens Bench Division London). The appointment of the Law firm was done on the understanding that the Ministry would be responsible for ensuring that reasonable professional fees were agreed upon, taxed and paid. The Ministry deposited Kshs.4,000,000 in the Advocates account in respect of legal fees. Thereafter the Legal firm with the authority of the Ministry engaged the services of another Law firm in England for the purpose of defending the Government of Kenya. Documents available indicate that the Kenyan Law firm filed a bill of costs before the Commercial Court at Mililani on 22 December 2009 against the Attorney General on behalf of the Ministry of Information, Communications and Technology. The Ministry filed its submission on 14 November 2011 opposing the said bill of costs. The matter was heard and a ruling delivered on 13 February 2013 dismissing the bill of costs and awarded the applicant the Kenyan law firm Kshs.4,000,000 that was earlier deposited in their account as sufficient for the advisory work done for the Ministry on Anglo Leasing related contracts.

The law firm which was aggrieved by the Commercial Court's decision, filed an appeal in the High Court on 7 March 2013 and judgement was made on 31 October 2013 stating that the award of the Commercial Court of Kshs.4,000,000 was inordinately low and subsequently awarded the law firm Kshs.25,000,000 as reasonable instructions fees for the legal services rendered by the Kenyan law firm. Although the Ministry paid Kshs.25,000,000 to the Attorney General for onward transmission to the law firm, no evidence of any contractual agreement between the Ministry and the law firm was availed for audit review. In the absence of the contractual agreement, it has not been possible to establish how the fee of Kshs.25,000,000 was arrived at. In the circumstance, the propriety of expenditure of Kshs.25,000,000 paid to the law firm could not be ascertained.

Submission by Accounting Officer

The Accounting Officer noted that the query was addressed in the FY 2014/15 responses, whose report has already been tabled.

373.2 Transfers to Other Government Units

373.2.1 Transfer of Grants to Kenya Yearbook Editorial Board

As previously reported, examination of available records in the Ministry indicates that a total of Kshs.83,198,400 was paid to Kenya Yearbook Editorial Board as grants for the financial year ended 30 June 2015. However, examination of payment vouchers indicates that an additional amount of Kshs.34,800,000 was paid as assistance to undertake various activities by the Kenya Yearbook Editorial Board vide payment vouchers No 419 and 501 for Kshs.27,000,000 and Kshs.7,800,000 respectively. The payments were done contrary to the Public Finance Management Regulations, 2015 Section 71 (5) which provide that a National government entity is not allowed to give another National government entity cash donationto augment the budgetary resources of a designated department.

In addition, funds appropriated and approved for specific programs by the Ministry of Information, Communications and Technology were paid to Kenya Yearbook Editorial Board contrary to Sections 54 of the Public Finance Management Regulation 2015 which state that except as provided for in the Act and these Regulations, an accounting officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for the purpose other than those activities. Further, review of records at the Kenya Year Book Editorial Board indicated that the funds were not in the approved budget for the financial year ended 30 June 2015 and the procurement plan for the year did not include the goods and services procured. The Ministry was therefore in breach of the Law and no satisfactory explanations has been provided on how the amount of Kshs.34,800,000 was utilized as at the date of this report.

Submission by Accounting Officer

The Accounting Officer noted that the query was addressed in the FY 2014/15 responses whose report has already been tabled.

373.2.2 Unclear Transfer of Grants to Ministry Departments

As previously reported, the statement of receipts and payments for the year ended 30 June 2015 reflects Kshs.2,435,625,509 under grants and transfers to other Government Units. Included in the figure of Kshs.2,435,625,509 were grants totalling Kshs.110,000,000 transferred to two (2) Ministry Departments - Government Advertising Agency (GAA) Kshs.83,000,000 and Kenya Institute of Mass Communication (KIMC) Kshs.27,000,000 without budgetary provisions and approval contrary to Section 31 (1) of the Public Finance Management Regulations, 2015 which states that the accounting officer shall ensure that the draft estimates relating to her/his department are prepared in conformity with the Constitution and the Public Finance Management Act, 2012 and its Regulations. It was however observed that the two (2) departments; Government Advertising Agency and Kenya Institute of Mass Communications were still Departments operating under the Ministry of Information, Communications and Technology and therefore do not qualify for grants. It was not clear and the Ministry has not explained the circumstances under which Kshs.110,000,000 was transferred to its two (2) internal departments and how the monies were utilized. In the circumstances, it has not been possible to confirm the propriety, regularity and validity of Kshs.110,000,000 transferred to the two (2) Ministry's internal departments as at the date of this report.

Submission by Accounting Officer

The Accounting Officer noted that the query was addressed in the FY 2014/15 responses, whose report has already been tabled.

373.3 Acquisition of Assets

373.3.1 Un-authorized Expenditure on Purchase of Motor Vehicles

As previously reported, records available at the Ministry indicates that a total of Kshs.104,335,548 was spent on purchase of motor vehicles during the year under review against a budgetary provision of Kshs.91,200,000 resulting in unauthorized over expenditure of Kshs.13,135,548. The Ministry through letter ref. No. RES112/14/01/28 dated 23 January 2015 obtained authority from the Principal Secretary, National Treasury for purchase of 12 four-wheel drive vehicles at a total cost of Kshs.70,695,190 to be distributed as follows: -

i. 4 (four) vehicles to National Optic Fiber back-bone Infrastructure (NOFBI),
ii. 4 (four) for county connectivity project and
iii. 4 (four) for Kenya Transparency Communication Infrastructure Project (KTCIP).

However, the Ministry disregarded the National Treasury authority to purchase twelve (12) vehicles and instead without authority, went ahead to procure twenty-three (23) vehicles at a total cost of \Kshs.104,335,548 resulting in an additional and unapproved expenditure of Kshs.13,135,548, as at 30 June 2015. In the circumstances, the propriety of over expenditure totaling Kshs.13,135,548 on motor vehicles has not been ascertained as the date of this report.

Submission by Accounting Officer

The Accounting Officer noted that the query was addressed in the FY 2014/15 responses, whose report has already been tabled.

373.3.2 Agency and Disbursement Fees to Huawei Technologies Ltd

As reported in the previous year, examination of payment vouchers revealed that the Ministry paid Kshs.28,218,313 to Huawei Technologies Ltd in 2014/2015 financial year in respect of agency fees. A review of the matter during the year under review revealed that the Ministry made a further payment of Kshs.6,716,103 to the firm all totaling Kshs.34,934,416 as at 30 June 2016. Although, Huawei Tech. (K) Ltd were contracted to provide project management services on behalf of the Government of the Republic of Kenya through the Ministry Contract No. 00Y404131300200 of 7 July 2010, no documentary evidence was availed to show how the firm was identified and awarded the contract and how the contract price was arrived at. Scrutiny of Ministry records also indicate that the goods were cleared on 28 December 2013, while reimbursement and claim documents were presented in March 2015. No explanation had been provided as to why the documents took over a year before the same were lodged with the Ministry for payment. Further, no documentary evidence indicating that the goods and services were verified and inspected by an independent inspection team was availed for audit review.

In the circumstances, it has not been possible to confirm the propriety of expenditure totaling Kshs.34, 934,416 as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer noted that the same Audit query arose in the Auditor General Report for the year 2014-2015 and was addressed in the Ministry's response.

(The decision not to use Government clearing Agency services at the State Department of Transport, Ministry of Transport and Infrastructure was to avoid likely delays in project implementation caused by outsourcing services froma third-party Agency other than HUAWEI who were incidentally the manufacturers of the equipment.

The Accounting Officer noted that the query was addressed in the FY 2014/15 responses, whose report has already been tabled.

373.4 Kenya Institute of Mass Communications (KIMC)

373.4.1 Construction of Men's Hostel at KIMC

As previously reported, examination of the Ministry records indicates that a Contract No. D32/01/2012-2013 for the proposed erection and completion of men's hostels at the Kenya Institute of Mass Communication was awarded to a construction company at a contract sum of

Kshs.188,858,602. However, scrutiny of the contract documents revealed that the contractor did not provide the following goods and services which were included in the bill of quantities:

Kshs.	
1. 2 No. Laptop Computers-Toshiba or other	
equal and approved	250,000
2. Project Management expenses:	
-Technical training of the MoPW 206,000	
-Project management expenses 1,030,000	
-Clerk of works allowances 154,500	
-Airtime KES.5000×1person×6×12months 370,800	
3. Performance bond 1,000,000	
4. Provision of site office for project manager 500,000	
TOTAL 3,511,300	

Further, it was noted that although the Contractor was required to provide a performance bond of 5% of the contract sum or Kshs.1,000,000, the amount was irregularly provided for in the bill of quantities and charged to the Ministry contrary to contract agreement. No satisfactory explanation had been provided as to why the contractor failed to provide for the performance bond as required. It was doubtful if public resources totaling Kshs.4, 511,300 was not wasteful expenditure.

Submission by Accounting Officer

The Accounting Officer noted that the query was addressed in the FY 2014/15 responses, whose report has already been tabled.

373.4.2 Failure to Deduct Withholding Tax on Payments to Contractor

As previously reported, examination of Ministry records revealed that the Ministry failed to deduct and remit to Kenya Revenue Authority withholding tax totaling Kshs.5, 665,758 upon payment to the contractor contrary to the Income Tax Act CAP 470 Section 35 (3) (f) which provides for deduction of withholding tax from resident Companies at the rate of 3% of the contract fees. No satisfactory explanation has been provided for the above anomaly and the Ministry was therefore in breach of Income Tax Laws.

Submission by Accounting Officer

The Accounting Officer noted that the query was addressed in the FY 2014/15 responses, whose report has already been tabled.

Other matter

374. Budgetary Controls and Performance

The Ministry of Information, Communications and Technology had a total budget of Kshs.17,693,497,869 voted for the financial year 2015/2016 comprising of Kshs.2,999,400,303 for Recurrent Vote and Kshs.14,694,097,566 for Development Vote respectively. The budget absorption in the Ministry was as follows:

	Budgeted Allocation 2015/2016	**Actual Expenditure 2015/2016**	**Under Absorption**	**Absorption in %**
	Ksh	**Ksh**	**Ksh**	**Ksh**
Recurrent	2,999,400,303	2,684,936,800	314,463,503	90%
Development	14,694,097,566	13,337,841,127	1,356,256,439	91%
Total	**17,693,497,869**	**16,022,777,927**	**(1,670,719,942)**	

It has not been explained why the Ministry did not fully utilize the budget allocation as at June 30 June 2016.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the year under review under-utilized both recurrent and development budget of Ksh. 314,463,503 and 1,356,256,439 respectively. This translates to 90% and 91% respectively. This was occasioned by delays in procurement processes, frequent disruptions of both G-Pay and IFMIS systems, delay in release of Supplementary Estimates for the Financial Year and non-reporting of AIA expenditures by Development Partners.

Committee Observations and Findings

The Management tabled an explanation to support its submission to resolve the matter relating to budget control and performance under paragraph 374 to the satisfaction of the Committee. The matter under paragraph 374 relating to budget control and performance stands resolved.

Committee Recommendations

The National Treasury should release exchequer on timeto facilitate the smooth running of activities.

17.0. MINISTRY OF SPORTS, CULTURE AND THE ARTS

FINANCIAL STATEMENTS FOR VOTE 1131

Amb. Kirimi P. Kaberiathe Accounting Officer for Vote 113 and Ms. Josephta O. Mukobe; Principal Secretary Heritage the Ministry of Sports, Culture and the Arts appeared before the Committee on 18th October2018 to adduce evidence on the audited Financial Statements of Vote 1131 the Ministry of Sports, Culture and the Arts for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. They were accompanied by the following Officials:

1. **Mr. Jacob Munge - Chief Finance Officer;**
2. **Mr. Mathew Murungi - Communication Officer;**
3. **Mr. Kassim M. Farrah – Secretary Administration;**
4. **Ms. Christabel Musyoka – AAG;**
5. **Mr. Stanley W. Kanyagu – ACCTI; and**
6. **Mr. Peter K. Mbugua – Assistant Secretary**

Basis for Qualified Opinion

377. Budget and Budgetary Control Expenditure

Section 43 (b) of the Public Financial Management (PFM) Act, 2012, and Regulations, 2015 require, "an Accounting officer to ensure that public funds entrusted to their care are properly safeguarded and are applied for purposes for which they were intended and appropriated by the National Assembly". The Ministry reallocated an amount of Kshs.211,954,395 under acquisition of assets and Kshs.27,081 under social security benefits without seeking prior approval of the National Treasury as required. No explanation has been provided for the failure to seek approval of the National Treasury for the reallocations. The Ministry was therefore in breach of the PFM Act, and its Regulations.

Submission by Accounting Officer

The Accounting Officer submitted that the over expenditure on the acquisition of assets and social security benefits were occasioned by the supplementary estimates where by the budget allocation for the two expenditure items were reduced after expenditure had already been incurred.

Committee Observations and Findings

(i) **The Ministry reallocated an amount of Kshs.211,954,395 under acquisition of assets and Kshs.27,081 under social security benefits without seeking prior approval of the National Treasury as required.**

(ii) **No explanation has been provided for the failure to seek approval of the National Treasury for the reallocations. The Ministry was therefore in breach of the PFM Act, and its Regulations.**

(iii) **The Committee marked the matter as unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they seek approval for reallocations from the National Treasury pursuant to the provisions of regulation 48 of the Public Finance Management (National Government) Regulations, 2015.

378. Outstanding Balances

i) District Suspense

The statement of assets as at 30 June 2016 reflects a figure of Kshs.21,648,312 in respect of accounts receivables which includes an amount of Kshs.20,756,326 disclosed under note 23 as relating to the district suspense that had not been supported by authentic and verifiable source documents. In addition, the above figure of Kshs.20,756,326 increased by Kshs.6,196,716 from Kshs.14,559,610.00 reported in 2014/2015 to Kshs.20,756,326 in the year under review. No analysis has been provided to account for the above movement.

In the circumstances, it has not been possible to confirm the accuracy of the receivables balance of Kshs.21,648,312.

Submission by Accounting Officer

The Accounting Officer submitted that the statements of assets and liabilities as at June 30th 2016 reflected kshs. 21,648,312 as accounts receivables which included Kshs. 20,756,326 relating to District Suspense that had no supporting documents. The figure of Kshs. 20,756,326 is the total of Kshs. 14,559,610 reported in 2014/15 and Kshs. 6,196,716 for financial year 2015/16 whose analysis is now provided.

The Accounting Officer clarified that the figures represented balances that various districts had not accounted for as analysed on attached schedules. The department is making follow up with relevant departments with a view of clearing the suspense.

Committee Observations and Findings

- **(i) The amount of Kshs.20,756,326 disclosed under note 23 as relating to the district suspense had not been supported by authentic and verifiable source documents.**
- **(ii) The figure of Kshs.20,756,326 increased by Kshs.6,196,716 from Kshs.14,559,610.00 reported in 2014/2015 to Kshs.20,756,326 in the year under review.**
- **(iii) The accounting officer clarified that the figures represented balances that various districts had not accounted for. The department was making follow up with relevant departments with a view of clearing the suspense.**

Committee Recommendations

The Accounting Officer should ensure that the department responsible makes the follow up and reports to the Auditor Generalwithin three (3) months of adoption of this report.

ii) Outstanding Imprests

Included in the accounts receivables' figure of Kshs.21,648,312 is an amount of Kshs.458,936 disclosed under note 23 as relating to outstanding imprests due from former officers of the Ministry. A review of the position at the time of audit in December 2016 showed that Kshs.154,400 and Kshs.279,336 owed by two officers have been outstanding beyond the due date of July and June 2016 respectively.

No explanation has been provided for the failure to recover the outstanding imprests in full from the defaulting officers' salaries as required by Section 93 (6) of the Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer admitted that it was true that it is true that the statement of Assets and Liabilities for the year ended 30th June, 2016 includes a figure of Kshs. 21,648,312 in respect of Accounts Receivables. Out of this figure, an amount of Kshs. 458,936.00 relates to outstanding imprests from former officers of the Ministry as Kshs. 154,500 and Kshs. 279,336 respectively.

The accounting officer clarified that two of the officers have so far surrendered imprests as indicated below. Follow up mechanisms have been instituted to ensure the amounts due to the other officers are recovered.
Below is a table of outstanding imprests and action taken:

S/No	Name	J/G	P/No.	Date Due	Outstanding Amt.	Action Taken
1	Agnes Nyakiba	S	1982007737	5-12-2016	16,800	Surrendered through **MR. 9534824** dated 28-9-2017
2	George Bosire	G	2008091550	5-12-2016	6,300	Surrendered through **MR. 9534825** dated 28-9-2017
3	Wangui Wambui	P	20140011820	16-10-2016	279,336	Recovery letters written Ref. MOSCA/SD/AC/9 VOL. I/(2) & MOSCA/SD/AC/9 VOL. I/(7) dated 23-9-2016 and 28-2-2017 respectively
4	Dominic Onyango	M	1989135581	18-7-2016	154,400	Recovery letters written vide Ref. MOSCA/SD/AC/9 VOL. I/(1) & MOSCA/SD/AC/9 VOL. I/(9) dated 23-9-2016 and 28-2-2017 respectively
TOTAL					**456,836**	

Committee Observations and Findings

(i) **The committee observed that an amount of Kshs.458,936 disclosed under note 23 relates to outstanding imprests due from former officers of the Ministry.**
(ii) **At the time of audit in December 2016 showed that Kshs.154,400 and Kshs.279,336 owed by two officers have been outstanding beyond the due date of July and June 2016 respectively.**
(iii) **The committee marked the matter as unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they adhere to the law regulating issuance and recovery of imprest pursuant to the provisions of Regulation 93 of the Public Finance Management (National Government) Regulations, 2015.

379. Pending Bills

379.1 Unsupported Pending Bills

Under note 26.1 in the Ministry's financial statements, bills totaling Kshs.259,876,116 were not settled during the year 2015/2016 but were instead carried forward to 2016/2017. Out of the Kshs.259,876,116, bills amounting to Kshs.9,748,727.20 relate to 2014/2015 financial year. The Ministry has cited liquidity problems due to inadequate provisions under various heads as the main reason for these pending bills. Had the bills been settled and charged to the 2015/2016 financial statements, the statement of receipts and payments would have reflected a deficit of Kshs.228,324,812 instead of a surplus of Kshs.31,551,304 now shown.

No reasons were given for failure to settle the pending bills amounting to Kshs.9,748,727 which should have formed the first charge in the subsequent year's payments as required under regulation 42 1(a) of the Public Finance Management Regulations, 2015.

Further, out of the total pending bills of Kshs.259,876,116, bills amounting to Kshs.56,326,648 were not supported. In addition, the above unsupported bills of Kshs.56,326,648, included a bill of Kshs.15,409,950 owed by an officer of the National Museums of Kenya in respect of allowance payable during the Jumuiya ya Afrika Mashariki Utamaduni Festival (JAMAFEST) held in August 2015 in Nairobi.

Consequently, the pending bills amounting to Kshs.56,326,648 remain unsupported as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Bills totalling Kshs. 259,876,116.00 disclosed in the financial statements were not settled during the year. It is also true that out of the total amount of Kshs. 259,876,116.00, bills amounting to Kshs. 9,748,727.20 relate to 2014/15 financial year.

Had the bills been paid and charged to 2015/16 financial year, the statement for receipts and payments for the year ended 30th June, 2016 would have reflected a deficit of Kshs. 228,324,812.00 instead of a surplus of Kshs. 31,551,304 disclosed under the statement of receipts and payments. List of pending bills attached.

Also, out of the total pending bills, bills totalling to Kshs. 56,326,648 were lacking supportive document.

The pending bills totalling to Kshs. 9,748,727 relates to unpaid balances of 2014/2015 financial year bills that were totalling to Kshs. 143,000,000. This was attributed to inadequate budgetary provisions**.** Documents relating to bills totalling to 56,326,648 have been traced and are available for verification.

Committee Observations and Findings

(i) **Bills totaling Kshs.259,876,116 were not settled during the year 2015/2016 but were instead carried forward to 2016/2017. Out of the Kshs.259,876,116, bills amounting to Kshs.9,748,727.20 relate to 2014/2015 financial year.The Ministry has liquidity problems due to inadequate provisions under various heads as the main reason for these pending bills.**

(ii) **Out of the total pending bills of Kshs.259,876,116, bills amounting to Kshs.56,326,648 were not supported. In addition, the above unsupported bills of Kshs.56,326,648, included a bill of Kshs.15,409,950 owed by an officer of the National Museums of Kenya in respect of allowance payable during the Jumuiya ya Afrika Mashariki Utamaduni Festival (JAMAFEST) held in August 2015 in Nairobi.**

Committee Recommendations

(i) **The Accounting Officer (during the period under review) must,within three (3) months of adoption of this report, provide documentation to support the bill of Kshs.56,326,648 within three months of the adoption of this report pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.**

(ii) **Where the accounting officer fails to provide an explanation, they should be surcharged Kshs.56,326,648 pursuant to the provisions of section 202 of the Public Finance Management Act, 2012.**

380. Unresolved Prior Year Issues

As reported in 2014/2015, an amount of Kshs.173,894,869 was indicated as pending bills deficit in respect of 20th Commonwealth Games expenditure brought forward from 2013/2014 financial year. However, only Kshs.143,967,837 was disclosed as pending bills in 2013/2014 financial year. The difference of Kshs.29,927,032 has to date not been explained.

381. Misallocation of Funds

a) Other Grants and Transfers

The statement of receipts and payments for the year ended 30 June 2016, includes a figure of Kshs.11,970,064 which relates to other grants and transfers but disclosed as membership fees and dues in note 16 to the financial statements. However, verification of documents availed for audit revealed that out of this balance, Kshs.11,112,482 was in respect of payments of other services which are unrelated to membership fees and dues. This is without the necessary approval of reallocations procedure. Although management has explained that the amount was budgeted for under contribution to international organisations, the list of these organisations together with confirmation receipts has not been provided. Further, the figure increased from Kshs.10,638,221 reported in 2014/2015 to Kshs.11,970,064 in 2015/2016 but no explanation has been provided for the change.

Submission by Accounting Officer

The Accounting Officer submitted that the monies appropriated under the expenditure items are meant for membership fees and dues.The list of organizations to which these monies are paid is herewith availed for your examination.

It was also true that not all payments relate to membership fees of International Organizations. Due to budgetary constraints and urgency, some operational expenses were charged to the account, and mostly they relate to sporting events whose budgetary provision was not adequate. However, the Ministry has endeavoured to adequately budget for sports activities.

Committee Observations and Findings

The Committee observed that the matter was in the report of the FY 2014/2015 and the report has been tabled.

Committee Recommendations

Accounting Officers must at all times ensure that they providetheAuditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

b)Social Security Benefits

Further, the statement of receipts and payments for the year under review reflects expenditure in relation to social security benefits of Kshs.4,027,081. However, records verification showed that only Kshs.377,768 related to service gratuity and the balance of Kshs.3,649,313 was used to cater for other unrelated expenses.

No reasons were provided for failure to seek National Treasury approval for the reallocations. The Ministry therefore acted in contravention of Section 43 of the Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that out of Kshs. 4,027,081, only Kshs. 377,767.70 relates to service gratuity account. However, due to budgetary constraints, some operational expenses were charged to the account. It should be emphasized that requests for funding of sporting activities are overwhelming compared to the budgetary provisions. To address this situation, the Ministry is seeking more budgetary provisions from the National Treasury.

Committee Observations and Findings

The committee observed that the matter was in the report of the FY 2014/2015 and the report has been tabled.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with reasons for failure to seek National Treasury approval for the reallocations as it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

382. Grants Not Received by the Respective State Corporations

The statement of receipts and payments for the year ended 30th June 2016, indicates that Kshs.3,735,363,985 was transferred to other Government units. However, verification of records maintained at the Ministry headquarters indicated that only Kshs.2,177,865,073 was transferred.

Transfers totaling Kshs.1,548,561,127 were not received by the respective state corporations as follows:

Government entity	Grants Transfers to other Govt units at the Ministry Kshs.	Amount Recorded at the Entities Kshs.	Amount not received Kshs.	Remarks
Kenya Film Commission	86,122,000	86,122,000	-	
Kenya Film Classification Board	181,493,396	180,969,600	523,796	Not received
National Museums	985,904,900	985,904,900	-	
Kenya National Library Services	999,116,048	603,000,000	396,116,048	Acquisition of Assets
Kenya Cultural Centre	91,954,999	56,702,023	35,252,976	Not received
Sports Kenya	237,291,600	237,291,600	-	
Institute of Primate Research	18,084,950	18,084,950	-	
Kenya Academy of Sports	9,938,990	9,790,000	148,990	Not received
Grants meant for other entities but utilised at Ministry HQ	1,116,519,317	-	1,116,519,317	No explanation
Total	**3,726,426,200**	**2,177,865,073**	**1,548,561,127**	

The Ministry cited the reasons for the differences as a reconciliation problem between the amounts utilised within the Ministry and the grants which were accounted for as acquisition of assets in other entities records. This explanation does not appear plausible and grants disbursed and not received by the respective entities totaling Kshs1,548,561,127 remain unaccounted for.

Although the financial statements reflect a figure of Kshs.3,735,363,985 under grants transfers to other Government entities as disclosed in note 15, analysis of records availed for audit in respect of these transfers indicate a total figure of Kshs.3,726,426,199 resulting in an unexplained difference of Kshs.8,937,786.

No explanation has been provided for failure to reconcile the records. The unauthorized utilization of grants meant for other entities imply that the activities/goals and objectives of the respective entities were not achieved as planned due to failure to disburse the full budgeted allocation. In view of the foregoing, the grants amounting to Kshs.3,735,363,985 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments for the year ended 30th June, 2016 indicated that Kshs. 3,726,426,200 was utilized as transfer to other government units.

The differences in grants transfer under Kenya Academy of Sports and Kenya Film Classification Board totalling to 672,786.00 was attributed to erroneous charging of expenditure item and the same has been corrected through Journal entries.

The difference of Kshs. 396,116,048.00 reflected in the books of Kenya National Library Services had been treated under an item of Acquisition of Assets whilst the Ministry budgeted for the same as Capital Grants item in its books. A copy of the extract of financial accounts carrying the changes is enclosed for your examination.

It was also true that grants utilized at Ministry's Headquarter increased from FY 2014/2015 to FY 2015/2016. The increase was due to new entities e.g. Sports Fund, ADAK created (SAGAS) during the Financial year under review and by the closure of the year, some of these entities had not been fully operationalised. Due to budgetary constraints during the year, not all grants were disbursed. The department engages the National Treasury for more funding in order to address the budgetary constraints.

SUBMISSION BY OTHER WITNESSES

Amb. Dr. Richard Ekai former Accounting Officer State Department of Sports appeared before the Committee accompanied by the following persons:

Mr. Cecil Miller - Advocate

and submitted as follow:

Paragraph 382

Grants not Received by Respective State Corporations

i. Grants utilized at Ministry Headquarters increased in the FY 2014/2015 to FY 2015/2016. The increase was due to budgetary provisions provided to operationalize the newly created government entities (SAGAs) namely the National Sports Fund (NSF), Anti-Doping Agency of Kenya (ADAK) and Kenya Academy of Sports (KAS). During the Financial Year under review and by the closure of the year these entities were not fully operational. The correct disbursement list from the Ministry to the entities was tabled
ii. Payments were made at the Ministry Headquarters both for activities undertaken by the Sports Department and for activities undertaken by the newly constituted entities (SAGAs), which had not yet established accounting structures, systems and bank accounts. The

SAGAs whose payments were made at the Ministry Headquarters included entities like Anti-Doping Agency of Kenya (Kshs 277,800,766.50), National Sports Fund (Kshs 178,466,086.80) and the World Youth Championship (Kshs 594,586,478.00).

iii. In order to safeguard Kenya's global image and position in the sporting world, the Ministry engaged the World Anti-Doping Agency (WADA), the International Association of Amateur Athletics (IAAF) and the International Olympic Committee (IOC) during the course of the financial year 2015/16. This resulted in the setting up of the Anti-Doping Agency of Kenya and the enactment of the Anti-Doping legislation by Parliament in 2016, without which Kenya would neither have participated in the Rio Olympics nor have hosted the 2017 Under-18 World Athletics Championships in Nairobi;

iv. He tabled letter, dated 18th July 2016, from the Director of the Kenya National Library Services (KNLS) to the Ministry stating that the institution received Kshs 603,000,000.00 for Recurrent Expenditure and further Kshs 564,321,428.85, which includes Kshs 396,116,048.00 (Receipt No. 2525), for Development Expenditure. Details of the letter show that the KNLS received all the funds earmarked for it in the FY 2015/2016;

v. Kshs 396,116,048.00 (Receipt No. 2525) reflected in the books of the Kenya National Library Services had been treated under an item of Acquisition of Assets whilst the Ministry budgeted for the same as Capital Grants item in its books.

vi. Kshs 672,786.00 (Kshs 523,796.00and Kshs 148,990.00 relating to Kenya Film Classification Board and Kenya Academy of Sports were erroneously charged and were later corrected; and

vii. Further, the unexplained difference of Kshs 8,937,786.00 related to expenses classified in the Statement of Receipts and Payments under other payments is included in the transfers to the SAGAs

Committee Observations and Findings

(i) The committee observed that the explanation by the accounting officer on the differences in grants transfer under Kenya Academy of Sports and Kenya Film Classification Board totalling to 672,786.00 was attributed to erroneous charging of expenditure item and the same has been corrected through Journal entries was acceptable.

(ii) The grants that were utilized at the Ministry's Headquarter increased from FY 2014/2015 to FY 2015/2016 due to new entities was not acceptable.

Committee Recommendations

The Cabinet Secretary for the National Treasury should put in place robust cash flow management systems in government that ensures there is adequate and timely financing of government programmes and projects to avoid cash not being received by state corporations.

383.Unexplained Increases in Expenditures

The following expenditure items increased significantly in 2015/2016 compared to 2014/2016 as follows:

2014/2015 2015/2016 Increase			
	Kshs.	**Kshs.**	**Kshs.**
Domestic Travel	78,022,873	188,452,773	110,429,900
Printing & Advertising	10,437,571	100,611,764	90,174,193
Hospitality & Supplies	33,105,102	140,023,680	106,918,578
121,565,546 429,088,217 307,522,671			

The huge increases were, however, not accompanied by explanatory notes as required.

Submission by Accounting Officer

The Accounting Officer submitted that it was true, that the expenditure on the items in the table below increased significantly in 2015/2016 compared to 2014/2015 financial year whereby explanatory notes were not provided.

Details	2014 / 2015	2015 / 2016	Increase	Explanation
Domestic Travel	78,022,873	188,452,773	110,429,900	JAMAFEST event expenditure (one-off item)
Printing and Advertising	10,437,571	100,611,764	90,174,193	JAMAFEST event expenditure (one-off item)
Hospitality and Supplies	121,565,546	140,023,680	18,458,134	JAMAFEST event expenditure (one-off item)
Total	**121,565,546**	**429,088,217**	**219,062,227**	

The Accounting Officer submitted that the huge increase in expenditure on the above items was occasioned by the extra expenses when Kenya hosted the Jumuiya ya Africa Mashariki Utamaduni Festival (JAMAFEST) from 2nd to 9th August, 2015. The explanatory notes have been attached and such notes will be included in future financial statements.

Committee Observations and Findings

The increase in expenditure was occasioned by the extra expenses when Kenya hosted the Jumuiya ya Africa Mashariki Utamaduni Festival (JAMAFEST) from 2nd to 9th August, 2015.

Committee Recommendations

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements with explanatory notes to the Auditor General within three months after the end of each financial year pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

384. Disbursements to Pan African Federation of Film Makers

As previously reported, on 23 December 2013, the Government through the former Ministry of Foreign Affairs and International Trade and Ministry of Sports Culture and the Arts, entered into a Memorandum of Understanding (MOU) with Pan African Federation of Film Makers (FEPACI) on the establishment of FEPACI Secretariat in Kenya for four (4) years at a cost of Kshs.84,000,000 per year.

The main objective of the financing agreement was to represent the interest of African Film makers in key fora such as African Union, African Governments, NEPAD and public broadcasting organizations. An amount of Kshs.83,485,637 was disbursed as a grant during 2014/2015 financial year while additional Kshs.64,000,000 was paid during the year under review to FEPACI. However, itemized budget and expenditure returns showing how the grants were utilized, were not provided for audit verification.

In the absence of such records, the utilization and accountability for the funds could not be confirmed and no evidence has been adduced to show that the objectives specified in the financing agreement have been met.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that as reported in 2014/2015 financial year, the Government on 23rd December, 2013, through the Ministry of Foreign Affairs and International Trade and Ministry of Sports, Culture and the Arts, entered into a Memorandum of Understanding (MOU) with Pan African Federation of Film Makers (FEPACI) on the establishment of FEPACI Secretariat in Kenya for (4) years at a contract price of Kshs. 84,000,000 per year.

The main objective of the financing agreement was to represent the interest of African Film Makers in key forums such as African Union, African Governments, NEPAD and Public Broadcasting Organizations. It is also true that in addition to Kshs. 84,000,000 paid as grant in 2014/2015. The vouchers have been submitted for audit verification.

The accounting officer submitted that it was true that Kshs. 64,000,000 was disbursed to FEPACI. The itemized budget, financial reports, and payment vouchers on how funds were utilized have been submitted for audit verification.

Committee Observations and Findings

The Committee observed that the query had been handled in the report for the FY 2014/2015 which has already been tabled.

385. Unsupported and Unaccounted for Disbursements

Under Section 49 of the Sports Act, No. 25 dated 2013, Sports organizations that were registered under the Societies Act were required to make application for registration before the Sports Registrar within one year after the commencement of the Act for the purposes of transition, which ended on 1 August 2014. However, as reported in 2014/2015, the Ministry disbursed funds amounting to Kshs.114,280,054 to various sports organizations which had not complied with the Sports Act, 2013.

A review of the position as at the time of audit in January, 2017 in regard to compliance with the Act, confirmed that these organizations had not legally transited and registered under the Sports Act, 2013 as required. Consequently, the disbursement of Kshs.114,280,054 was done irregularly.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that under section 49 of the Sports Act No. 25 of 2013, sports organizations that were registered under the Societies Act were required to apply for registration with the Sports Registrar within one year up to 1st August, 2014. However, as reported in the 2014/15 financial year, the Ministry disbursed Kshs. 114,280,054 to various sports organizations which had not complied with the Sports Act 2013.

The Accounting Officer submitted that it was notable that some sports organizations have taken some considerable period to comply with the Act due to external factors which include wrangles within federation factions and consequently having prolonged disputes under Sports Tribunal. However, I wish to reiterate that the payments were made in compliance with the Ministry's purpose and objective of advancement of sports in the country.

The Accounting Officer clarified that various organisations, namely, Kenya National Sports Council, Sofapaka and Kenya Football Federation have since been registered with the Registrar of Sports.

Committee Observations and Findings

- **(i) The Accounting Officers explanation that some sports organizations had taken a long period to comply with the Act due to external factors which led to prolonged disputes under Sports Tribunal and that various organisations, namely, Kenya National Sports Council, Sofapaka and Kenya Football Federation had since been registered with the Registrar of Sports was acceptable.**
- **(ii) The committee marked the matter as resolved.**

386. Failure to Prepare Separate Financial Statements

With the enactment of Sports Act, 2013, several bodies were created, including Kenya Academy of Sports and National Sports Fund among others. However, records verified indicate that during the year these entities received grants totaling Kshs.159,589,537 from the Ministry of Sports Culture and the Arts and utilized them independently as follows:

Organization	**Amount - Kshs.**
National Sports Fund	116,236,537
Kenya Academy of Sports	9,790,000
Sports Registrar	33,563,000
Total	**159,589,537**

However, the entities do not prepare their own financial statements and their financial records are still incorporated in the financial statements of the Ministry.

The reason given by management for the failure to prepare separate financial statements was that the entities had not opened their own bank accounts with the Central Bank to enable them to conduct their transactions independently. The explanation does not appear satisfactory since record keeping could still be done and financial statements consolidated with the Ministry's financial statements.

In the circumstances, the Ministry failed to comply with Section 82 of the Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that following the enactment of the sports Act 2013, several bodies including the Kenya Academy of Sports and the National Sports Fund were created. However, records verified indicate that these entities received grants totalling to Kshs 159,589,537 from the Ministry during the year and utilized them separately as follows:

Entity	**Amount**
National Sports Fund	Kshs. 116,236,537
Kenya Academy of Sports	Kshs. 9,790,000
Sports Registrar	Kshs. 33,563,000
Total	**Kshs. 159,589,537**

These three entities did not prepare their own financial statements and their records were incorporated in the Ministry's financial statements contrary to Section 82 of the Public Finance Act, 2012.

The accounting officer stated that:

National Sports Fund

TheAccounting Officer submitted that the entity was in its formative stage and therefore did not have own employees, neither did it have bank accounts for financial operations. The Ministry also did not have adequate number of accounts staff to manage its affairs, yet the National Sports Fund had to be supported to start off its operations.

The Accounting Officer stated that the Ministry assisted this entity with banking and other financial operations and reporting. The National Sports Fund has since employed own staff, opened bank accounts and are now preparing own financial statements and have been availed for audit with effect from 2016/2017 financial year.

Kenya Academy of Sports

The Accounting Officer submitted that they prepared their accounts independently in 2016/2017. However, the accounts for 2015/2016 and 2014/2015 financial years were prepared under Sports Kenya.

The Sports Registrar is a technical department within the Ministry and its financial statements form part of the Ministry's accounts**.**

It is important to note that the two SAGAs (Sports Fund and Kenya Academy of Sports) have now been audited for the last two consecutive financial years.

SUBMISSION BY OTHER WITNESSES

Amb. Dr. Richard Ekai former Accounting Officer State Department of Sports appeared before the Committee accompanied by the following persons:

Mr. Cecil Miller - Advocate and submitted as follows:

Paragraphs 156 (FY 2014/2015)and **386** (FY 2015/2016)

Failure to Prepare Separate Financial Statements

i. It took some sports organizations considerable time to comply with the Act due to external factors, which included wrangles within the federations. This, consequently, prolonged disputes under the Sports Tribunal, which affected registration of the Football Kenya Federation (FKF) and the Kenya National Sports Council

ii. It also took quite some time to resource the Office of the Sports Registrar with staff and equipment to fully operationalize the Sports Act through the enactment of the requisite regulations, which had to go through the mandatory consultations and validation by sports stakeholders.

iii. The Ministry had to balance between the need to streamline and regulate sporting organizations and the need to offer opportunities to many talented young people to excel in sports and represent their country. In order to meet this need, the Ministry made payments in compliance with the Ministry's purpose and objective of the advancement of sports in the country, without which Kenya would not be a regional sports powerhouse and a global sporting superpower in rugby and athletics;

iv. No funds were disbursed by the Ministry to meet administrative costs of running federations in compliance with the Sports Act of 2013. Funds disbursed were purposely to meet travel, allowances and accommodation costs for players and team officials of Football Kenya Federation (FKF) and clubs in the FYs 2014/2015 and 2015/2016;

v. The Kenya National Sports Council (KNSC) is the institution that manages all sports (Olympics and non-Olympics sports) and is a critical link between Kenya and the federation that manages the continental All African Games. The KNSC has been working with the Ministry, through the Department of Sports, to promote sports in the country. To nurture sports talent among the youth, the Ministry supports Talanta FC (MOYAS FC), which is a youth team that was formed from the old Ministry of Youth Affairs and Sports (MOYAS). The membership of KNSC is drawn from the Ministry and the various sporting federations;

vi. The disbursement to Football Kenya Federation (FKF) was only given to allow Harambee Stars and Harambee Starlets (players and officials) to participate in the regional Confederation of East and Central African Football Association (CECAFA) Championships and the continental championships organised by the Confederation of African Football (CAF) in the FY 2014/2015;

vii. The FY 2014/2015 and 2015/2016 was the period Kenya bided and won to host CHAN Football Championship and, therefore, there was need to prepare Harambee Stars adequately by facilitating its participation in various regional and continental Football competitions, the results of which Harambee Stars has improved in the World Football Ranking and is now a team many Kenyans are enthusiastic to watch; and

viii. The Sports Registrar has since registered both the Football Kenya Federation (FKF) and the Kenya National Sports Council (KNSC).

Committee Observations and Findings

The three entities did not prepare their own financial statements and their records were incorporated in the Ministry's financial statements contrary to Section 82 of the Public Finance Act, 2012.

Committee Recommendations

The Accounting Officer must ensure that all the entities comply with Section 82 of the Public Finance Act, 2012 by opening separate financial statements.

Other Matter

387. Grounded Motor Vehicles

Although Section 163(1) of the Public Procurement and Disposal Act, 2015, provides guidelines and procedures for disposal of unserviceable, obsolete, or surplus stores, equipment or assets, an audit inspection at Permanent Presidential Music Commission revealed as previously stated, three (3) months Motor vehicles (GK A717G, GK A905P and GK A756M) of undetermined value have been lying at the parking yard for over four years (4) with no indication of whether the vehicles would be repaired or disposed of. Aside from depreciating in value, the grounded vehicles made no contribution towards the achievement of service delivery objectives of the Ministry.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that three (3) months motor vehicles GK A756M, GK A905P and GK A717G with undetermined values were lying at Permanent Presidential Music Commission yard unused for a considerable time. It was also true that GK A756M has been lying at the yard for over three (3) months years. It was further true that apart from the depreciation, the vehicles were idle and contributing less towards the Ministry's objectives.

The Accounting Officer submitted that the Ministry has since repaired GK A372P and GK A717G and the vehicles are now being used. The vehicle GKA 756M is serviceable as per mechanical assessment and will be repaired as soon as funds are available. The other vehicle GK A905P has undergone valuation by the mechanical Engineer from the Ministry of Transport and Infrastructure and is pending disposal.

Committee Observations and Findings

The Committee observed that the query had been handled in the report for the FY 2014/2015 which has already been tabled.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

18.0. STATE DEPARTMENT FOR LABOUR AND SOCIAL PROTECTION FINANCIAL STATEMENTS FOR VOTE 1141

Mr. Nelson Marwa and Dr. Ibrahim M. Mohamed, the Accounting Officers for Vote 1141, State Department of Labour and Social Protectionappeared before the Committee on 4thJanuary, 2019 to adduce evidence on the audited Financial Statements of Vote 1141 State Department for Labour and Social Protection for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. They were accompanied by the following Officials:

1. **Mr. Moses Muya - Deputy Head Accounting Unit;**
2. **Mr. Samuel Thuite - Director Occupational Health;**
3. **Ms. Beatrice Igandwa - Deputy Head Accounting Services;**
4. **Mr. Noah Mio Sanganyi - Director Children Service;**
5. **Ms. Jane Muyanga - Senior Assistant Director- Children;**
6. **Mr. Kimani Moses - Chief Supt Quantity Surveyor;**
7. **Mr. Paul Maema - Superintending Structural Engineer;**
8. **Mr. Musa Ntandusi - Deputy Director DOHS;**
9. **Mr. James M. Njogu - Principal Supply Chain Management;**
10. **Mr. Chario Libwob - Social Development Officer;**
11. **Ms. Catherine Waema - Director KEDVT;**
12. **Ms. Edith Okoki - Ag. Director General National Emp. Authority;**
13. **Ms. Joyce Mwale - DS Labour;**
14. **Mr. Eric Maina - Internal Auditor;**
15. **Mr. Peter Kasese –Department of Labour; and**
16. **Mr. Omed Ngaira - Department of Labour**

Basis for Qualified Opinion

388. Budget and Budgetary Performance

388.1 Revenue

During the financial year ended 30 June 2016, revenue recorded totaled Kshs.19,854,385,060 against estimated budget of Kshs.24,348,910,635 resulting in a shortfall of Kshs.4,494,525,575 or 18% as shown below:

Description	Budget Kshs.	Actual Kshs.	Excess/ (Shortfall) Kshs.	Excess/ (Shortfall) %
Proceeds from Domestic & Foreign	1,400,000	-	1,400,000	0%
Exchequer releases	24,294,745,635	19,776,467,940	(4,518,277,695)	(19%)

Proceeds from sale of assets	52,765,000	68,542,120	15,777,120	30%
Other receipts	1,800,000	9,375,000	7,575,000	20%
Total	**24,348,910,635**	**19,854,385,060**	**(4,494,525,575)**	**(18%)**

Submission by Accounting Officer

TheAccounting Officer stated that the shortfall mainly occurred under exchequer releases where the Ministry had budgeted for Kshs.24,294,745,635 but received Kshs.19,776,467,940 occasioning a Kshs.4,518,277,695 shortfall or 19%. The Ministry, realized an over collection of Kshs.15,777,120 under proceeds from sale of assets which was mainly attributed to increase in number of registered social groups. The Ministry did not however, include an explanatory note in the financial statements for the shortfall of Kshs.4,518,277,695 in exchequer receipts.

It is true that during the financial year ended 30th June 2016,revenue recorded totaled Kshs 19,854,385,060 against estimated budget of Kshs 24,348,910,635 resulting in a shortfall of Kshs 4,494,525,575 or 18%.This was occasioned by ;

(i) Delays in accessing the 2nd half development budget in IFMIS from January to March 2016.

(ii) Massive transfer of Public Financial Management Finance (PFM) Officers, Procurement and Accountants in the 4th quarter of 2015/16 Financial Year which affected absorption of allocated funds since it took time for the new officers to report and get settled to start operations in the System.

(iii) Early closure of the IFMIS system including frequent breakdowns during the 4th quarter of the financial year.It is also true that the Ministry realized an over collection of Kshs 15,777,120 under proceeds from sale of assets which was occasioned by an increase in the number of groups registered during the year than anticipated.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining the shortfall of Kshs.4,518,277,695 in exchequer receipts was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require including an explanatory note in the financial statements for the shortfall in exchequer receipts to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

388.2 Expenditure

Similarly, an analysis of the Ministry's' actual expenditure against the budgeted amount revealed the following variances:

Description	Budget Kshs.	Actual Kshs.	Excess/ (Shortfall) Kshs.	Excess/ (Shortfall) %
Compensation of employees	1,756,871,027	1,711,648,331	(45,222,696)	(3%)
Use of goods and services	3,220,325,352	2,135,413,197	(1,084,912,155)	(34%)
Transfers to other Government units	18,162,689,752	15,219,640,122	(2,943,049,630)	(16%)
Other grants and transfers	373,812,933	239,082,354	(134,730,579)	(36%)
Acquisition of assets	835,211,571	251,348,622	(583,862,949)	(70%)
Total	**24,348,910,635**	**19,557,132,626**	**(4,791,778,009)**	**(20%)**

The Ministry had budgeted to spend Kshs.24,348,910,635. However, actual expenditure was Kshs.19,557,132,626 for the year ended 30 June 2016. The under expenditure of Kshs.4,791,778,009 was mainly attributed to delays in accessing second half development budget, massive movement of staff towards the end of the financial year and early closure of IFMIS. Consequently, the under expenditure negatively impacted on service delivery by the Ministry.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry had budgeted to spend Kshs 24,348,910,635 but the expenditure was Kshs 19,557,132,626 for the year ended 30th June 2016 resulting into an under-expenditure of Kshs. 4,791,778,009.

The difference between the budgeted and the actual expenditure incurred was occasioned by the following:

1.2.1 Compensation to employees: this was as a result of the following:

- During the Financial Year the Ministry provided for recruitment of 74 employees because of serious succession management facing the Ministry in the technical departments. This was not attainable since the National Treasury did not grant the concurrence within the Financial Year.
- The Ministry lost 51 staff through natural attrition in various cadres and levels.

1.2.2 Use of goods and services

1.2.3 Transfers to other government units

1.2.4 Other Grants

1.2.5 Acquisition of Assets

The under expenditure on 1.2.2 to 1.2.5 was occasioned by:-

- Delays in accessing the 2nd half development budget in IFMIS from January to March 2016.
- Massive transfer of Public Financial Management Finance (PFM) Officers, Procurement and Accountants in the 4th quarter of 2015/16 Financial Year affected absorption of allocated funds since it took time for the new officers to report and get settled to start operations in the System.
- Early closure of the IFMIS system including frequent breakdowns during the 4th quarter of the financial year.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining the shortfall of Kshs.4,518,277,695 in exchequer receipts was persuasive however no submission was presented addressing the matter as to whether the under expenditure negatively impacted on service delivery by the Ministry for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require including an explanatory note in the financial statements for the shortfall in exchequer receipts to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

389. Unvouched Expenditure

During the year ended 30 June, 2016, payments totaling Kshs.133,095,128 were made to various contractors engaged by the Ministry. However, tender documents for all the bidders, bills of quantities (BQs), evaluation reports and contract agreements for the winning bidders as well a Ministerial Tender Committee Minutes approving the awards and practical completion certificates were not provided for audit review.

In consequence, it has not been possible to confirm propriety and value for money of the total expenditure of Kshs.133,095,128.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that during the year ended 30th June 2016, payments totaling Kshs 133,095,128 were made to various contractors engaged by the Ministry. However tender documents for the bidders, bills of quantities (BQs), evaluation reports and contract agreements for the winning bidders as well as Ministerial Tender Committee Minutes approving the awards and practical completion certificates were not provided for audit review. However the following copies of the required documents have been submitted for audit review.

1. **Contract No. D114NB/NB/1401/ JOB NO.1002A**
Contract Description: Refurbishment of the Proposed National Employment Centre at Kabete
Documents Submitted:
- Copy of Tender notice as it appeared on page 48 of the Daily Nation newspaper on Friday 20th February 2015 and page 47 of the Standard newspaper on the same date. Copy of Tender Document for the winning bidder M/s Infor-serve Network Limited.
- Copy of approved Ministerial Tender Committee Minutes No. MTC/MLSS/12/18/2014-2015 held on 26th March 2015 at NSSF block A, 6th Floor boardroom approved by the Principal Secretary
- Copy of signed Tender Evaluation Report dated 6th march 2015 incorporating the official estimate
- Notification of award signed by Mrs. T. Icharia to the winning bidder as well as copies of regret letters to the unsuccessful bidders.
- Acceptance letter signed by the winning bidder.
- Copy of signed contract agreement for the proposed works that was entered into by the Contractor and the PS dated 15th May 2015**.**

2. **Contract Job No. CWO/NRB/D114/19/2014-2015**

Contract Description: Proposed Research Institute Office Complex for the Department of Occupational Safety and Health Services (DOSH) – Phase IV

Documents Submitted:
- Copy of Tender Document for the winning bidder M/s Blue Stream Enterprises Limited.
- Copy of approved Ministerial Tender Committee No. MTC/MLSS/12/2014-2015 held on 29th January 2015 at NSSF block A, 6th Floor boardroom approved by the PS.
- Copy of signed Tender Evaluation Report dated 26th January 2015 incorporating the official estimate.
- Notification of award signed by the Mrs. T. Icharia to the winning bidder on 29th January 2015 as well as regret letters to the unsuccessful bidders.
- Acceptance letter ref. no. BS/MLSS&S/1/1/2015 from the winning bidder dated 3rd February 2015.
- Signed agreement for the proposed works that was entered into by the Contractor and the PS dated 3rd March 2015.

3. **Contract No. MLSS&S/01/HQ/2014-2015**

Contract Description: Proposed Refurbishment of 7th Floor boardroom at NSSF Building

Block A

Documents Submitted:

- o Copy of Tender Document for the winning bidder M/s Site General Contractors.
- o Copy of approved Ministerial Tender Committee No. held on 29th January 2015 at NSSF block A, 6th Floor boardroom approved by the PS Minute No. MLSS&S/MTC/08/12/2014-2015.
- o Notification of award signed by the Mrs. T. Icharia to the winning bidder on 29th January 2015.
- o Acceptance letter from the winning bidder dated 2nd February 2015.
- o Signed contract agreement for the proposed works that was entered into by the Contractor and the PS.

4. Contract Job No. MLSS&S/10/LABOUR/2014-2015

Contract Description: Proposed Conversion of Courts No. 1 & 2 to boardroom and registry at NSSF block C

Documents Submitted:

- o Copy of the Tender Document for the winning bidder M/s Marty Enterprises Limited.
- o Copy of approved minutes of award ref no. MTC/MLSS/09/17/2014-2015 held on incorporating the tender evaluation report with the official estimate which was read out aloud at the tender opening ceremony at Ksh. 2,960,111.20.
- o Notification of award signed by the Mrs. T. Icharia to the winning bidder on 10th March 2015.
- o Acceptance letter from the winning bidder.

The tender documents for the tenders **JOB NO.1002A,CWO/NRB/D114/19/2014-2015 and JOB NO. MLSS&S/10/LABOUR/2014-2015** are available for auditing at the Supply Chain Management office, located on Block A, NSSF Building 14th Floor. Due to the bulkiness of the said documents, it was not practical to make copies for all tender documents for submission to the audit office hence our reason for submitting only for the respective successful bidders. The Supply Chain Management officers are available for any further clarifications on the same.

- The tender document for the winning bidder that is: M/s Site General Contractors is available.
- Original minutes for the respective MTC proceedings for award of the Tenders and Contract agreements are also available.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that tender documents for the bidders, bills of quantities (BQs),evaluation reports and contract agreements for the winning bidders as well as Ministerial Tender

Committee Minutes approving the awards and practical completion certificates were provided for audit review was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information including tender documents for the bidders, bills of quantities (BQs),evaluation reports and contract agreements for the winning bidders as well as Ministerial Tender Committee Minutes approving the awards and practical completion certificates it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

390. Shoddy Construction of Occupational Safety and Health Services - Research Institute Office Complex

As previously reported, the construction of the Occupational Safety and Health Services (OSH) - Research Office Complex project commenced on 28 February 2010 at an estimated cost of Kshs.480,000,000. The main purpose of constructing the research and institute office complex was to assist OSH in keeping abreast with changing issues in as far as work environment health and safety of workers was concerned. Although the construction works commenced on 28 February 2010, the expected completion date was not stated. Further, the builders' works were divided into five (5) phases with the construction of each floor being advertised, evaluated and awarded to different contractors. A total of Kshs.343,458,956 had been paid to various contractors for the year ended 30 June 2016.

Physical verification of the ongoing works revealed that the parking basement was water logged due to poor workmanship while the basement floor constructed at a total cost of Kshs.71,239,810 was full of drainage water due to poor waterproofing and poorly reinforced concrete base which was at the time of the audit in February 2017 being reconstructed by a different contractor. Available information indicated that a submersible pump has been installed to pump water from the basement. The foundation of the building was therefore not properly done and the stability of the building was questionable thus endangering the safety of workers of which OSH is mandated to inspect/detect their safety in other work places. In view of the poor planning, poor workmanship and poor implementation, the project cost is likely to escalate from the estimated cost of Kshs.480,000,000 considering that work was still incomplete more than seven (7) years later.

Submission by Accounting Officer

The Accounting Officer submitted that being a government project, the management for the entire project has been under the county works officer, Nairobi in the Ministry of Public Works.

The Nairobi County Public Works office has made assurance with issuance of completion certificates dated 24/08/2014 and 28th April 2017 respectively that the work have been carried out as required and all the requisite tests have been carried out to ensure the building is of sound structural integrity.

Committee Observations and Findings

(i) **The submission tabled by the Accounting Officer explaining the project cost is likely to escalate from the estimated cost of Kshs.480,000,000 considering that work was still incomplete more than seven (7) years late because the Nairobi County Public Works office has made assurance with issuance of completion certificates dated 24/08/2014 and 28th April 2017 respectively was not persuasive and the documents should have been submitted to the Auditor General during the subsequent financial year for audit review.**

(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

(i) **Within three months upon adoption of this report, the Accounting Officer must present to the National Assembly a report on the building's structural integrity test undertaken by a competent authority and another report on the building's completion status for further action.**

391. Refurbishment of Medical Clinic at Department of Occupational Safety and Health – Industrial Area

During the year under review, a total of Kshs.2,862,213 was utilised in the refurbishment of the Medical Clinic at the Occupational Safety and Health at Industrial Area in Nairobi. The works involved partitioning, painting, installation of doors and shelves, window blinders, among other things. Although the works were completed in July, 2015, a physical inspection of this facility in January 2017 revealed that the facility was neglected and had never been utilized. The facility was covered in dust and was in an unkempt state while an X-ray machine procured at a cost of Kshs.7,000,000 in 2007 (now obsolete) lay in one of the rooms without having been used due to lack of qualified personnel.

In the circumstances, the propriety and value for money of the expenditure of Kshs.9,862,213 on both the unused X-ray machine and refurbished clinic could not be ascertained.

Submission by Accounting Officer

Medical Clinic

The Accounting Officer submitted that it was true that the works on the medical clinic was completed in July 2015, even though it remained unoperational at the time of the audit due to lack of furniture as there were no funds to purchase the same. However currently the clinic is being used as work injury evaluation clinic with the use of old furniture relocated from other offices.

X-Ray Machine

After installation of the X-ray machine the Radiation Protection Board was notified and officers from the Board came and tested and found it to be functional. However, the machine has not be commissioned as it requires a qualified radiographer to operate it. The ministry had been assisted from Ministry of health with a radiographer but this could not be sustained due to facilitation challenge. Currently we do not have a radiographer although there is a post of radiographer in our staff establishment which is yet to be filled.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining the clinic is being used as work injury evaluation clinic with the use of old furniture relocated from other offices and the Ministry had been assisted from Ministry of health with a radiographer but this could not be sustained due to facilitation challenges was not persuasive in explaining that the propriety and value for money of the expenditure of Kshs.9,862,213 on both the unused X-ray machine and refurbished clinic.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Within three months of the adoption of this report, the Accounting Officer must ensure that measures are taken to have the facility put to proper and originally intended use.

392. Unsupported Pending Bills

Bills amounting to Kshs.90,993,075 chargeable to both the recurrent and development Vote-1141 were not settled during the year but were instead carried forward to 2016/2017 financial year. Had these bills been cleared and charged to the vote, the statement of receipts and payments for the year 2015/2016 would have reflected a reduced net surplus to be surrendered to the exchequer of Kshs.206,259,359 instead of Kshs.297,252,434 now shown.

Further, no supporting documents were provided for audit review to confirm the validity of the pending bills. As a result, the accuracy, completeness and validity of the pending bills of Kshs.90,993,075 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that bills amounting to Kshs.90,903,075 chargeable to both the recurrent and development vote – 114 were not settled during the year 2015/2016 but were instead carried forward to 2016/2017 Financial Year. This was occasioned by:

- Massive transfer of Public Financial Management PFM Officers (Procurement and Accountants) in the 4th quarter of 2015/2016 Financial year which affected absorption of allocated funds since it took time for the new officers to report and get settled to start operations in the system.

- Early closure of the IFMIS system including frequent breakdown during the 4th quarter of the financial year.

The Accounting Officer stated that the Ministry has settled the bills in the subsequent financial year 2016/2017.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining the Ministry has settled the bills in the subsequent financial year 2016/2017 was persuasive.

(ii) The Committee marked the matter as resolved.

393. Unreconciled Lease Payments

An examination of lease payments for the Ministry's offices at Social Security House revealed that lease payments totaling Kshs.102,785,801 did not tally with the signed lease agreements amounts of Kshs.85,482,678. No reconciliation statements in support of the lease payments were provided for audit review. Further, lease payments totaling Kshs.66,545,107 were not produced for audit review. Under the circumstances, it has not been possible to confirm the accuracy and validity of the lease payments totaling Kshs.169,330,908.18. 394. Unsupported Payments for Cleaning Services

During the year 2015/2016, a cleaning company was contracted at a cost of Kshs.406,335 per month and paid a total of Kshs.8,849,697 for rendering cleaning services to the Ministry. However, payments totaling Kshs.6,307,680 were not supported by schedules showing the period when the work was done or the service that was rendered.

In the circumstances, the propriety of the expenditure of Kshs.6,307,680 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that an examination of lease payments for the Ministry's offices at Social Security House revealed that lease payments did not tally with the signed lease agreements.

The variation in the lease payment was caused by change of rates in different financial years since the Banking rates of payments are reviewed after every 2 years by the State Department of Public Works. Copies of signed leases and lease payments totaling Kshs.66,545,107.00 have been submitted for Audit review.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that copies of signed leases and lease payments totaling Kshs.66,545,107.00 have been submitted for audit review to was compelling. However, no explanation was submitted to address the failure to supply schedules to support payments for rendering cleaning services to the Ministry totaling Kshs.6,307,680.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information including schedules to support payments it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

394. Unsupported Payments for Cleaning Services

During the year 2015/2016, a cleaning company was contracted at a cost of Kshs.406,335 per month and paid a total of Kshs.8,849,697 for rendering cleaning services to the Ministry. However, payments totaling Kshs.6,307,680 were not supported by schedules showing the period when the work was done or the service that was rendered.

In the circumstances, the propriety of the expenditure of Kshs.6,307,680 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that during the year 2015/2016, a cleaning company was contracted at a cost of Kshs 406,335 per month and paid a total of Kshs 8,849,697 for rendering cleaning services to NSSF Building ACK House. Payments totaling Kshs 6,307,680 indicating the period when the work was submitted for audit review.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that payments totaling Kshs 6,307,680 indicating the period when the work was submitted for audit review was compelling. However,no explanation was submitted to address the failure to supply schedules to support payments for rendering cleaning services to the Ministry totaling Kshs.6,307,680.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information including schedules to support payments it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

395. Irregular Payment for Manpower Consultancy Services

During the year ended 30 June 2016, an individual consultant was paid Kshs.2,244,600 in respect of consultancy services titled National Manpower Survey Report. According to the contract agreement signed in July, 2012 the consultancy was to take a duration of three months at a contract

sum of Kshs.4,988,000. Further, the final report was delivered in May, 2013 and partial payment of Kshs.2,743,400 was made during the 2012/2013 financial year.
However, it was not clear how the consultant was identified and contracted since no evaluation report and Ministerial Tender Committee Minutes approving the award were produced for audit review. No explanation was provided as to why the debt had remained outstanding since 2013 but had never been declared as a pending bill in previous' years. In addition, the expenditure was irregularly charged under Item 2211023- Supplies for Production as opposed to Item 2211310- Contracted Professional Services.
In the circumstance, the payment of Kshs.2,244,600 during 2015/2016 could not be confirmed as a proper charge to the public funds.

Submission by Accounting Officer
The Accounting Officer submitted that the National Manpower Survey (NMS) National Steering Committee(NSC) recommended sourcing of the Project Manager from the wider Public Service (Head-hunting) vide minutes of meeting held on 28th Oct. 2009(attached 3/12/2009 page 4 The position was not tendered thus there was no tender documents.
On 22nd Dec. 2009, the NSC approved a TOR and tasked the Secretariat to circulate for the Project Manager and short list the applicants for their consideration and appointment

A sub-committee report tabled on 20th Jan. 2010 identified the best candidate as a Mr. Francis Musyoka Munene, a Chief Economist in the then Ministry of Justice and Constitutional Affairs (MoJ&CA), Followed by Mr. Jacob Odhong' Omolo a Research Assistant from Institute of Policy Analysis and Research (IPAR). The only records available are CVs of the two top contenders.
As minuted, the Officer Mr. Francis Musyoka Munene was asked to move in and take the position.

The members also mandated the Chair, PS Labour, to take the second best candidate in the event that the first choice did not report. On 22/01/2010 Mr. Munene offered the post vide letter MLHRD/HRPD/DEV/3/3/VOL.1 CONF (45) (copy attached).Mr. Munene declined the offer on 17/03/2010 vide letter CONF/80108472/VOL.II (10) (copy attached). Mr. Omolo was offered the post on 30/03/2010 Vide letter MLHRD/HRPD/DEV/3/3/VOL.CONF (72) and he accepted the offer vide his letter of the same date (copies attached)

1. Why was the outstanding amount not paid earlier and why was it not declared a pending bill

    - NMS activities were being funded under the Research Item of the Recurrent Budget. During the FYs 2013/14; 2014/15, this Item was not funded and the department could not meet obligations already agreed upon.
    - The department declared this a pending bill, among others, right from the completion of the task by the Project Manager (see attached Memo from the then Director to the

Principal Accountant dated 28th Aug. 2014) was a subject of deliberation during the pending bills verification committee chaired by Administration.

2. Charging of funds under Supplies for Production instead of contracted professionals services.

The charging of expenditure to supplies for production was an error which is not likely to recur by ensuring that it is only the Chief Finance Officer who advices on the relevant item to charge.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining the manner in which the consultant was identified and contracted since no evaluation report and Ministerial Tender Committee Minutes approving the award were produced for audit review, as to why the debt had remained outstanding since 2013 but had never been declared as a pending bill in previous' years was persuasive.

(ii) The Committee marked the matter as resolved.

396. Unsupported Bursary Payments

Examination of records maintained at the Ministry headquarters revealed that a total of Kshs.9,007,260 was paid as bursaries to needy students within the Nairobi County Constituencies. However, no selection criteria or receipts and acknowledgement letters from the beneficiary schools in support of the payments were produced for audit review.

Consequently, the propriety of the expenditure of Kshs.9,007,260 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that examination of records maintained at the Ministry headquarters revealed that a total of Kshs 9,007,260 was paid as bursaries to needy students within the Nairobi County Constituencies. However no selection criteria or receipts and acknowledgement letters from the beneficiary schools in support of the payments were produced for audit review. However all the documents for proof of disbursements to respective schools were availed for audit review and verified.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining all the documents for proof of disbursements to respective schools were availed for audit review and verified was persuasive. However, the submission did not explain the failure to submit the selection criteria or receipts and acknowledgement letters from the beneficiary schools in support of the payments for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information including selection criteria or receipts and acknowledgement letters it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

397. General and District Suspense

The statement of assets reflects a general and district suspense balance of Kshs.3,271,890,830 for the year ended 30 June 2016. However, no schedules were provided to support these long outstanding balances. Management has not explained what challenges are faced in resolving this matter.

In the circumstances, the completeness, accuracy and validity of these significant balances of Kshs.3,271,890,830 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the district suspense account balance of Kshs 3,271,890,830 for the year ended 30 June 2016.However no schedules were provided to support these long outstanding balances. This was occasioned by old balances brought forward from the financial year 2014/2015.The National Treasury through the Public Financial Management Reforms constituted a task force to deal with the old balances which is still ongoing and the preliminary report on the old balances are attached**.**

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the National Treasury through the Public Financial Management Reforms constituted a task force to deal with the old balances which is still ongoing was persuasive.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

TheNational Treasury Task Force on Old Balancesshould, within three (3) months of adoption of this report, present a report to enable the resolution of this matter by the State Department.

398. Outstanding Imprests

The statement of assets as at 30 June 2016 reflects an outstanding imprests' balance of Kshs.11,307,390 while imprests records reviewed indicated a balance of Kshs.16,108,427. The resultant difference of Kshs.4,801,037 has not been reconciled or explained. Further, imprests totalling Kshs.683,678 have been outstanding since 2014/2015 and earlier years. In addition, imprests amounting to Kshs.3,230,777 were issued to officers who had not accounted for previous issued imprests.

As a result, the propriety and recoverability of the imprests totalling Kshs.4,801,037 as at 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Statement of Financial assets for the year ended 30th June 2016 reflects an outstanding imprest balance of Kshs.11,307,390.00 while imprest records reviewed indicated a balance of Kshs.16,108,427.00. The resultant difference of Kshs.4,801,037.00 resulted from reconciliation of IFMIS records and manual imprest register which has been reconciled and recoveries and surrenders are being made accordingly.

The issuing of more than one imprest is regrettable and will not be repeated again.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining that resultant difference of Kshs.4,801,037.00 resulted from reconciliation of IFMIS records and manual imprest register which has been reconciled and recoveries and surrenders are being made was persuasive. However, no submission was offered relating to imprests totalling Kshs.683,678 have been outstanding since 2014/2015 and earlier years.**

(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

(i) **The Accounting Officer must, within three (3) months of adoption of this report, ensure that they submit documentation relating to imprest totalling Kshs.683,678 having been outstanding since 2014/2015 and earlier years.**

(ii) **Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.**

Other Matter

399. Grounded Motor Vehicles

Section 163(1) of the Public Procurement and Disposal Act, 2015, provides guidelines and procedures for disposal of unserviceable, obsolete, or surplus stores, equipment or assets. An audit inspection carried out in 2015/2016 at the Ministry and its state various corporation yards in Nairobi revealed that sixteen (16) motor vehicles and two (2) motor cycles with undetermined values were still lying at the yard for over four (4) years with no indication of whether those vehicles would be repaired or disposed-off. Aside from the clear depreciation in value, such vehicles are also not contributing towards the achievement of the annual objectives while new vehicles continue to be purchased.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Audit Inspection for the financial year 2015/16 revealed that the Ministry and its state corporations in Nairobi had sixteen (16) Motor vehicles and two motor cycles which were still lying at the yard for over 4 years despite having outlived their useful economic life.

The management has since disposed off the motor vehicles and the two motor cycles through a Public Auction through our letter Ref: MLSS&s5/1 dated 9th June, 2017.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining that the management has since disposed of the motor vehicles and the two motor cycles through a Public Auction through a letter Ref: MLSS&s5/1 dated 9th June, 2017 was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.**

(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they are responsible for the management of the entity's assets inawaywhich ensures that thenational government entity achieves value for money in acquiring, using and disposing of those assets pursuant to the provisions of section 72(1) of the Public Finance Management Act, 2012.

400. Feedback on Quality Review of Annual Financial Statements

The Management has not acted or given any feedback on the recommendations made by the Directorate of Accounting and Quality Assurance with respect to resolving issues regarding old balances.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the management had not given any feedback on the recommendation made by Directorate of Accounting and Quality Assurance with regard to uncleared outstanding Old balance. The Ministry has finalized the clearing of the old balance and as has requested CBK through Treasury letter dated 16th January 2018 to avail statements of unspent AIEs from the districts to enable confirmation of bank balance appearing in the financial statement.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining that the Ministry has finalized the clearing of the old balance and has requested CBK through Treasury vide letter dated 16th January 2018 to avail statements of unspent AIEs from the districts to enable confirmation of bank balance appearing in the financial statementwas persuasive.**

(ii) **The Committee marked the matter as resolved.**

401. Incomplete Summary of Fixed Asset Register

The Ministry is required under Annex 4 of the IPSAS - National Government Financial Reporting Template, to provide a summary of fixed assets register listing the asset class and historical cost. However, Annex 4 of the financial statements presented for audit did not include the list and value of assets. In the circumstance, it was not possible to confirm the total value of the fixed assets in the Ministry.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry did not provide a summary of fixed Asset register as required of the IPSAS reporting Template at the time of the Audit. The Ministry has since compiled a list and value of some of the Assets and the process is still ongoing.

Committee Observations and Findings

(i) **The submission tabled by the Accounting Officer explaining theMinistry is in process of compiling a list and value of some of the Assets and the process is still ongoing was persuasive.**

(ii) **The Committee marked the matter as unresolved pending completion of the exercise.**

Committee Recommendation

(i) **The Accounting Officer must, within three (3) months of adoption of this report, ensure that State Department submits a summary of Fixed Asset Register as required by the IPSAS reporting Template.**

(ii) **Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.**

DONOR FUNDED PROJECTS

KENYA NATIONAL SAFETY NET PROGRAM (NSNP)

Basis for Disclaimer Opinion

402. Failure to Prepare Financial Statements

As previously reported, out of the five (5) programs under NSNP, three (3) months programmes namely; Older Persons Cash Transfer Program, Hunger Safety Net Program and the Social Protection Secretariat (which is responsible for consolidation) did not prepare and submit separate financial statements as required by International Public Sector Accounting standards (IPSAS) (Cash Basis). In addition, ledgers in support of the figures in the financial statements and the corresponding trial balances were not provided for audit review.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Financial Statements for 3 Programmes namely; Older Persons Cash transfer Program, Hunger Safety Net Program and the Social Protection Secretariat were not prepared. It should be noted that, the two programmes (Older Persons Cash transfer Program and Social Protection Secretariat) are implemented within the Ministry and are not considered as separate entities to prepare financial statements. Similarly, Hunger Safety Net Program (cash Transfer component) is implemented within the Ministry of Devolution. The activities of all the programmes are reported in a consolidated statements under National Safety Net Programme.

Committee Observations and Findings

(i) **The submission tabled by the Accounting Officer explaining activities of all the programmes are reported in a consolidated statements under National Safety Net Programmewas persuasive.**
(ii) **The Committee marked the matter as resolved.**

402.1 Cross Referencing of Figures in the Financial Statement

The financial statements presented for audit were not properly numbered or the figures aligned to the respective headings or notes as required. Hence, it was not possible to match pages and headings of the financial statements.

In view of the foregoing, it has not been possible to confirm the accuracy, completeness and presentation of the amalgamated financial statements.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the financial statements presented for audit were not properly numbered or the figures aligned to the respective headings or notes required. However, this anomaly has so far been corrected in the subsequent financial statement prepared.

Committee Observations and Finding

(i) **The submission tabled by the Accounting Officer explaining that the revised financial were prepared with properly numbered and the figures aligned to the respective headings or notes was compelling and should have been submitted to the Auditor General during the subsequent financial year for audit review.**
(ii) **The Committee marked the matter as unresolved.**

Committee Recommendation

(i) **The Accounting Officer must, within three (3) months of adoption of this report ensure that they submit the revised financial statements with properly numbered and the figures aligned to the respective headings or notes for audit review.**
(ii) **Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.**

403. Cash and Cash Equivalents

403.1 The consolidated statement of assets and liabilities (per program) reflects cash equivalents totaling Kshs.1,049,567,265 for the year ending 30 June 2016 made up of Kshs.218,360,263 of cash equivalents under cash transfer for persons with disabilities and Kshs.26,145,446 of cash equivalents under cash transfer for orphans and vulnerable children. No analysis was provided to support the cash equivalent figure of Kshs.244,505,709.

403.2 Further, the amalgamated statement of receipts and payments for the year ended 30 June 2016 under older persons cash transfer Program shows total payments of Kshs.4,302,024,463 against the receipts of Kshs.6,483,131,463, leaving a cash balance carried forward of Kshs.4,585,804,810. However, the cash balance carried forward has not been reflected in the statement of assets for the same period. No explanation has been provided for the omission of the cash balance of Kshs.4,585,804,810 from the statement of assets.

Submission by Accounting Officer

The Accounting Officer submitted that paragraph 403.1&2financial statement, an analysis of cash and cash equivalent has been done in the reference note number 8 to the financial statement. The same has been reflected in the Statement of Assets in the Financial Statement.

Committee Observations and Findings

- **(i) The submission by the Accounting Officer explaining that an analysis of cash and cash equivalent has been done in the reference note number 8 to the financial statement and the same has been reflected in the Statement of Assets in the Financial Statement was satisfactory.**
- **(ii) The Committee marked the matter as resolved.**

403.3 In addition, the amalgamated statement of assets and liabilities (per program) as at 30 June 2016 reflects a bank balance of Kshs.729,991,088 under the cash transfer for orphans and vulnerable Children (CT-OVC) which differs with the combined cash book balance for CT-OVC Grant and CT-OVC Credit of Kshs.687,681,701. The resultant difference of Kshs.42,309,387 has not been reconciled.

The statement also reflects a bank balance of Kshs.39,687,866 under Hunger Safety Net Program that differs with the cash book balance of Kshs.47,115,304. The difference of Kshs.7,427,432 has also not been reconciled.

In the circumstances, the accuracy of the cash and cash equivalents' balance of Kshs.1,049,567,265 in the amalgamated statement of assets and liabilities as at 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer noted that, similarly, the difference of Kshs 7,427,432 between the cash book balance and the Bank statement Under Hunger Safety net Program, has been reconciled and reflected in the statement of Assets.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the difference of Kshs 7,427,432 between the cash book balance and the Bank statement Under Hunger Safety net Program, has been reconciled and reflected in the statement of Assetswas persuasive. However, no explanation was submitted for failure to submit reconciliation of the resultant difference of Kshs.42,309,387.

(ii) The Committee marked the matter as unresolved.

Committee Recommendation

(i) The Accounting Officer must, within three (3) months of adoption of this report, ensure that they submit reconciliation relating to the resultant difference of Kshs.42,309,387 for audit review.

(ii) Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

404. Budgetary Control and Performance

404.1 Income

A comparison of budget against the actual receipts reflects the following differences;

Description	Budget Kshs.	Actual Kshs.	Excess/ (Shortfall) Kshs.	% Variance
Government of Kenya	17,507,779,519	14,793,398,429	(2,714,381,090)	(15.5%)
External Financing	6,864,410,454	5,533,663,870	(1,330,746,584)	(19.4%)
Miscellaneous Receipts	1,200,000	13,012,920	11,812,921	984.41%
Total	**24,373,389,973**	**20,340,075,219**	**(4,033,314,754)**	**(16.5%)**

No explanation has been provided for the difference of Kshs.4,033,314,754 or 16.5%between the actual and budgeted amounts.

404.2 Expenditure

An analysis of the project actual expenditure against the budgeted amount revealed the following variances.

Description	Budget Kshs.	Actual Kshs.	Excess/ (Shortfall) Kshs.	% Variance
Older Persons Cash Transfer Program	7,785,158,762	4,302,024,463	(3,483,134,299)	(44.7%)
Cash Transfer for persons With Severe Disabilities	1,120,000,000	1,675,820,192	555,820,192	49.62%
Cash Transfer for orphans and Vulnerable Children	9,087,644,619	5,834,998,805	(3,252,645,814)	(35.7%)
Hunger safety Net program	5,491,950,230	5,454,721,272	(37,228,958)	(1%)
Social Protection Secretariat	887,436,362	176,163,030	(711,273,332)	(80.1%)
Total	**24,372,189,973**	**17,443,727,762**	**(6,928,462,211)**	**(28.4%)**

No reasons have been provided for the failure to spend Kshs.6,928,462,211 or 28.4% of the amalgamated budgeted expenditure. In the circumstances, the goals and objectives of the four (4) amalgamated cash transfer programmes may not have been achieved as planned.

Submission by Accounting Officer

The Accounting Officer stated that for paragraph 402.1 and 404.2, it was true that the income realized and expenditures was way below the budgeted with a difference of Kshs 4,033,314,754 or 16.5 % and of Kshs 6,928,462,211 respectively, it was caused by the following:-

- Delay in up-loading of the supplementary budget.
- The mass movement of the Public Financial Management Officers that negatively affected the operations of the Ministries/Departments.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the failure to spend Kshs.6,928,462,211 or 28.4% of the amalgamated budgeted expenditure was caused by delay in up-loading of the supplementary budget and the mass movement of the Public Financial Management Officers that negatively affected the operations of the Ministries/Departments was persuasive.

(ii) The Committee marked the matter as resolved.

405. Inclusion of Income not Related to Cash Transfers

The consolidated statement of receipts and payments for the year ended 30 June 2016 reflects receipts from the Government of Kenya totalling Kshs.1,578,695,000 under cash transfer for persons with severe disabilities. A review of records indicate that actual Government receipts amounted to Kshs.1,200,000,000. Under the circumstances, Kshs.458,695,000 does not relate to cash transfer program and the Government receipts have therefore been overstated by Kshs.458,695,000.

Further, the amalgamated statement of assets and liabilities as at 30 June 2016 reflects a bank balance of Kshs.35,382,601 under the cash transfer for persons with severe disabilities while the respective cash book reflects a cash balance of Kshs.65,709 as at 30 June 2016. The difference of Kshs.35,316,892 relates to programs that are not associated with the cash transfer for persons with severe disabilities.

In view of the foregoing, the amalgamated statement of receipts and payments and statement of assets and liabilities as at 30 June 2016 under cash transfer for persons with severe disabilities has been overstated by Kshs.458,695,000 and Kshs.35,316,892 respectively.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there was inclusion of income not related to cash transfers for persons with service Disabilities. However the error was corrected in the subsequent financial Statement.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explainingthat there was inclusion of income not related to cash transfers for persons with service disabilities and the error was corrected in the subsequent financial Statementwas compelling.

(ii) The Committee marked the matter as unresolved.

Committee Recommendation

(i) The Accounting Officer must, within three (3) months of adoption of this report, ensure that they submit reconciliation relating to the amalgamated statement of receipts and payments and statement of assets and liabilities as at 30 June 2016 under cash transfers for persons with severe disabilities for audit review.

(ii) Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

406. Unexplained Differences between the Trial Balance and the Statement of Receipts and Payments in the Financial Statements

The project's statement of receipts and payments differs with the trial balance in the following expenditure components:

Expenditure	Statement of Receipts & Payments Kshs.	Trial Balance Figures Kshs.	Difference Kshs.
Compensation of employees	181,897,262	171,245,613	10,651,649
Social security benefits	14,776,938,313	6,469,569,738	8,307,368,575
Use of goods and Services	2,454,651,559	943,524,477	1,511,127,082
Acquisition of non-financial assets	30,240,628	28,237,290	2,003,338
Total	**17,443,727,762**	**7,612,577,118**	**9,831,150,644**

The differences totalling Kshs.9,831,150,644 between the two sets of records have not been reconciled. Further, no schedules were provided to support the total payments of Kshs.17,443,727,762 reflected in the consolidated statement of receipts and payments.

In the circumstances, the accuracy and completeness of the projects financial statements could not be ascertained.

Submission by Accounting Officer

The Accounting Officer noted that as earlier mentioned, these programmes are implemented in different sites that is Ministry of Devolution, National Council for Persons with Disabilities and Ministry of Labour and Social Protection. Even though the consolidation under National Safety Net Programme is done at the Ministry of Labour and Social protection, the expenditures and payments are done in the respective implementing entities where schedules are held and audited, only financial data is sent for consolidation. Schedules were available at the various entities for verification to ascertain accuracy and completeness of the financial statements.

Committee Observations and Findings

(i) **The submission tabled by the Accounting Officer explaining the consolidation under National Safety Net Programme is done at the Ministry of Labour and Social protection, the expenditures and payments are done in the respective implementing entities where schedules are held and audited, only financial data is sent for consolidation and Schedules were available at the various entities for verification to ascertain accuracy and completeness of the financial statements was not persuasive as it did not indicate whether schedules were provided to support the total payments of Kshs.17,443,727,762 reflected in the consolidated statement of receipts and payments ordifferences totaling**

Kshs.9,831,150,644 between the two sets of records relating to the statement of receipts and payments have been reconciled for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendation

(i) Accounting Officer must,within three (3) months of adoption of this report, ensure that they submit reconciliation relating to the schedules provided to support the total payments of Kshs.17,443,727,762 reflected in the consolidated statement of receipts and payments and reconciled statement of receipts and payments relating to the differences totaling Kshs.9,831,150,644 for audit review.

(ii) Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

407. Incorrect Brought Forward Balances

The consolidated statement of receipts and payments for the year ended 30thJune 2016 reflects opening balances as at 1 July 2015 that differ with the audited closing balances for the year ended 30 June 2015 as highlighted below:

	Audited Closing Balance as at 30 June 2015 Kshs.	Opening Balance as at 1 July 2015 Kshs.	Differences Kshs.
Receipts			
Government of Kenya	12,509,676,290	11,903,096,621	606,579,669
External financing	5,316,159,252	5,511,919,480	-195,760,228
Payments			
Older Persons Cash Transfer Program	3,233,292,524	5,602,223,299	-2,368,930,775
Cash Transfer for Persons with Severe	714,806,797	775,686,797	-60,880,000
Disabilities			
Cash Transfer for Orphans and Vulnerable Children	5,591,653,627	6,478,908,905	-887,255,278
Hunger Safety Net Program	4,076,727,570	4,068,207,293	8,520,277

No explanation has been provided for the failure to carry forward the correct opening balances which normally agree with the audited closing balances.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of receipts and payments and statement of assets for the year ended 30th June 2016 shows different opening balance with the closing balances of audited statements of 2014/15 financial year. However, in the subsequent financial statements the differences were restated as per provision of IPSAS 3(54), for the year ended 30th June 2016.

408. Unsupported Cash Disbursements and Payments to Beneficiaries

During the year under review, a total of Kshs.11,603,659,502 was disbursed to Kenya Commercial Bank (KCB) for onward transmission to beneficiaries under the cash transfer for orphans and vulnerable children, older persons cash transfer and persons with severe disabilities programs. However, the required reconciliation reports from KCB showing how much money was received from the Ministry, disbursed, paid to the beneficiaries, withdrawn, uncollected by card/account, number of active agents per Sub-County for cash transfer, card used in a month, and refunds deposited in the Ministry's designated account were not made available for audit review.

In the circumstances, the service provider was in breach of the agreement signed with the Ministry, and the accuracy of the cash disbursements of Kshs.11,603,659,502 in the year could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that a total of Kshs. 11,603,659,502 was disbursed to Kenya Commercial Bank (KCB) for onward transmission to beneficiaries under the cash transfer for orphans and vulnerable children, older persons cash transfer and persons with severe disabilities programs. And at the time of audit, reconciliation was not availed for audit review. The reconciliations were thereafter availed and reviewed.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that reconciliations relating to the accuracy of the cash disbursements of Kshs.11,603,659,502 were availed and reviewed was persuasive.

(ii) The Committee marked the matter as resolved.

409. Unreconciled Social Security Benefits

The consolidated statement of receipts and payments for year ended 30 June 2016 reflects social security benefits payments of Kshs.3,932,974,665 under the Hunger Safety Net Program (HSNP). However, records maintained by Financial Sector Deepening, the agent engaged by DFID for the disbursement of cash, indicated Kshs.4,664,053,392 was transferred through Equity bank (the service provider) while HSNP reflected Kshs.4,802,049,922 as having been transferred.

The resultant differences among the three entities' records have not been explained or reconciled. Further, no reasons have been given for engaging multiple intermediaries.

In the circumstances, the accuracy and completeness of the amount disbursed as social security benefits could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there was an unreconciled Social Security Benefits. However set of records from the consolidated accounts figures, Financial Deepening Sector and Hunger Safety Net Programme, a reconciliation was done and the amount transferred under Social Security Benefit agreed at Kshs 4,802,049,922.the same was restated in the subsequent Financial Statement.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that reconciliation was done and the amount transferred under Social Security Benefit agreed at Kshs 4,802,049,922 and the same was restated in the subsequent Financial Statement to the Financial Deepening Sector and Hunger Safety Net Programme was compelling.

(ii) The Committee marked the matter as resolved.

CASH TRANSFER FOR ORPHANS AND VULNERABLE CHILDREN (CT-OVC) CREDIT NUMBER 4553-KE

Basis for Adverse Opinion

410. Accuracy, Completeness and Presentation of Financial Statements

The Project's statement of receipt and payments differs with the Trial balance in the following expenditure components:

Expenditure	Statement of Receipts and Payments Kshs.	Trial Balance Kshs.	Difference Kshs.
Purchase of Goods and Services	223,785,075	194,009,190	29,775,885
Acquisition of nonfinancial assets	-	26,355,902	26,355,902
Other Grants and transfer and Payments	240,000,000	5,000,000	235,000,000
Total	**461,785,075**	**225,565,092**	**236,219,983**

The total variances of Kshs.236,219,983 between the two sets of records, which ordinarily should read the same, has not been reconciled. Further, no schedules were provided for audit review to support the total payments of Kshs.465,585,075.

Submission by Accounting Officer

The Accounting Officer stated that it was true the trial balance amounts differed with the Financial Statement figures at the time of Audit. However the same was subsequently reconciled and availed for audit review.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that reconciliation of total variances of Kshs.236,219,983 between the two sets of records have been submitted for audit review to was compelling. However, no explanation was submitted to address the failure to supply schedules for audit review to support the total payments of Kshs.465,585,075

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

(i) The Accounting Officer must, within three (3) months of adoption of this report, ensure that they submit reconciliation relating to the supply schedules for audit review to support the total payments of Kshs.465,585,075 for audit review.

(ii) Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

411. Suspense Account Balances

As previously reported, the statement of financial assets as at 30 June 2015 reflects a suspense account balance of Kshs.24,442,276 while the statement of financial assets as at 30 June 2016 reflects a nil balance. No explanation has been provided to show how the suspense account balance has been cleared. As a result, the authenticity of the suspense account clearance could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of financial assets as at 30 June 2016 reflected a suspense account balance of Kshs 24,442,276.However an amount of Kshs 24,442,276 related to payment made from Government of Kenya Funds instead of IDA Credit Funds and reported in Suspense account at close of the Financial Year 2014/2015.Since the payment was used to finance similar activity, a prior year adjustment was subsequently made to expense the balance in the following Financial Year 2015/16.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining an amount of Kshs 24,442,276 related to payment made from Government of Kenya Funds instead of IDA Credit Funds and reported in Suspense account at close of the Financial Year 2014/2015

and since the payment was used to finance similar activity, a prior year adjustment was subsequently made to expense the balance in the following Financial Year 2015/16was satisfactory.

(ii) The Committee marked the matter as resolved.

412. Cash and Bank Balances

The statement of financial assets as at 30 June 2016 reflects a bank balance of Kshs.179,691,592 while the cash book reflects a figure of Kshs.177,954,884. The difference of Kshs.1,736,708 has not been explained or reconciled.

Further, the bank statement as at 30 June 2016 reflects a balance of Kshs.186,029,409 which differs with the cash book balances of Kshs.177,954,884 as at the same date. The resultant difference of Kshs.8,074,525 has also not been reconciled.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Statement of Financial Assets as at 30th June 2016 reflect a balance of Kshs 179,691,592 as opposed to Kshs 177,954,884.However a reconciliation has been done and correctly restated in the subsequent Financial Statement

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining a reconciliation relating to a difference of Kshs.8,074,525 has been done and correctly restated in the subsequent Financial Statement was persuasive. However, it should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendation

(i) , The Accounting Officer must, within three (3) months of adoption of this report,ensure that they submit reconciliation relating to the reconciled statement relating to a difference of Kshs.8,074,525 for audit review.

(ii) Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

413. Unsupported Cash Disbursements

During the year under review, a total of Kshs.240,000,000 was paid to Kenya Commercial Bank (KCB) for onward transmission to beneficiaries under the Cash Transfer for Orphans and Vulnerable Children Programme.However, reconciliation reports from Kenya Commercial Bank showing; how much money was received from the Ministry, was disbursed, paid to the beneficiaries, withdrawn, uncollected by card/account, number of active agents per sub county for cash transfer, card used in a month, and refunds deposited in the ministry's designated bank accounts were not made available for audit review as required.

In the circumstances, the service provider is in breach of the agreement signed with the Ministry and the accuracy of the cash disbursements in the year could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Project paid Kshs.240, 000,000.00 to Kenya Commercial Bank (KCB) for onward transmission to beneficiaries under the Cash Transfer for Orphans and Vulnerable Children Programme in the financial year 2015/2016. However, the Kshs.240,000,000.00 paid to KCB was to top-up the balance with the Payment Service Provide after an authority granted by the National Treasury for September-December, 2015 payment cycle. And at the time of audit, reconciliation was not availed for audit review. The reconciliations were there after availed and reviewed.

Committee Observations and Findings

(i) **The submission tabled by the Accounting Officer explaining that reconciliation reports from Kenya Commercial Bank showing; how much money was received from the Ministry, was disbursed, paid to the beneficiaries, withdrawn, uncollected by card/account, number of active agents per sub county for cash transfer, card used in a month, and refunds deposited in the ministry's designated bank accounts were availed for audit and reviewed was compelling and the position was confirmed by the Auditor.**

(ii) **The Committee marked the matter as resolved.**

414. Failure to Maintain an Assets Register

During the year, the project acquired assets worth Kshs.35,988,058 which included furniture, cameras, tablets and shredders. However, the project did not maintain a fixed assets register and, the assets remained unrecorded and therefore could not be verified. Further, the required annual stock taking was not carried out as at 30 June 2016.

As a result it has not been possible to confirm the expenditure of Kshs.35,988,058 in respect of purchase of goods and services included in the financial statements.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Asset Register was not availed for audit review at the time of audit. The State department have been working towards ensuring that an asset register is in place and updated regularly.

Committee Observations and Findings

(i) **The submission tabled by the Accounting Officer explaining that the State department have been working towards ensuring that an asset register is in place and updated**

regularlywas persuasive. However, it should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendation

(i) The Accounting Officer must, within three (3) months of adoption of this report. ensure that the fixed assets register is availed for audit review.

(ii) Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

415. Unsupported Expenditure

A total of Kshs.617,859 was paid to an advocacy and communication consultant described as work done during the months of April and May 2016. However, the consultant invoices and progress reports were not produced for audit review. Further, the contract and terms of consultancy were not made available for scrutiny.

In the circumstances, the propriety of payments amounting to Kshs.617,859 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that a total of Kshs 617,859 was paid to advocacy and Communication consultant, the invoices and progress reports were subsequently availed for audit review as required.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that it was true that a total of Kshs 617,859 was paid to an advocacy and communication Consultant, the invoices and progress reports were subsequently availed for audit reviewwas persuasive. However, it should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendation

(i) The Accounting Officer must, within three (3) months of adoption of this report, ensure that they submit the invoices and progress reports relating to Kshs 617,859 was paid to an advocacy and communication Consultant for audit review.

(ii) Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

416. Budgetary Control and Performance

416.1 Income

During the year under review, the project recorded as revenue an amount of Kshs.141,353,800 against a budget of Kshs.411,353,800 resulting in an under absorption of Kshs.270,000,000.

No explanation has been provided for the difference between the actual and the budgeted amounts from external development partners.

Submission by Accounting Officer

Loan from External Development Partners.

The Accounting Officer submitted that it was true that there was underutilization of Loan from External Development Partners. The underutilization of the Kshs.270, 000,000.00 was caused by the following:-

- Delay in up-loading of the supplementary budget.
- The mass movement of the Public Financial Management Officers that negatively affected the operations of the Ministries/Departments.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the underutilization of the Kshs.270,000,000.00 was caused by the following delay in up-loading of the supplementary budget and the mass movement of the Public Financial Management Officers that negatively affected the operations of the Ministries/Departmentswas persuasive.

(ii) The Committee marked the matter as resolved.

416.2 Expenditure

An analysis of the projects' actual expenditure against the budgeted amount revealed the following variances;

Description	Budget Kshs.	Actual Kshs.	Excess(+)//Shortfall (-) Kshs.	% Variance
Purchase of goods and services	322,009,800.	223,785,075	(98,224,725)	30.50%
Acquisition of non- financial assets	267,450,000	-	(267,450,000)	100.00%
Other grants and	261,600,000	240,000,000	(21,600,000)	8.26%

transfer payments				
Totals	**851,059,800**	**463,785,075**	**(387,274,725)**	**45.5%**

No reasons have been provided for the failure to spend Kshs.387,274.725 or 45.5% of the budgeted expenditure. In the circumstances, the projects goals and objectives may not have achieved as planned.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there were variances in the actual expenditure against the budgeted amounts at 45.5% or Kshs 387,274,725.the underutilization was caused by

1. Mass movement of the Public Financial Management Officers that negatively affected the operations of the Ministries/Departments.
2. Delay in up-loading of the supplementary budget

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining there were variances in the actual expenditure against the budgeted amounts at 45.5% or Kshs 387,274,725.the underutilization was caused by mass movement of the Public Financial Management Officers that negatively affected the operations of the Ministries/Departments and delay in up-loading of the supplementary budgetwas persuasive.

(ii) The Committee marked the matter as resolved.

CASH TRANSFER FOR ORPHANS AND VULNERABLE CHILDREN (CT-OVC) GRANT NO. 097272-KE

Basis for Adverse Opinion

417. Incorrect Opening Balances

The statement of receipts and payments and statement of assets reflects opening balances as at 1 July 2015 that differ with the audited closing balances for the year ended 30 June 2015 as follows:

	Audited Closing Balance as at 30 June 2015 Kshs.	**Opening Balance as at 1 July 2015 Kshs.**	**Differences Kshs.**
Receipts			
Proceeds from Grants	1,180,679,450	1,184,227,980	**3,548,530**
Payments			
Compensation of employees	619,200	533,800,000	**(85,400)**
Purchase of Goods and	29,734,853	55,820,631	**26,085,778**

Services			
Other grants andtransfer payments	888,140,981	879,286,196	**(8,854,785)**
Surplus /Deficit for the Year	**262,184,416**	**248,587,353**	**(13,597,063)**
Statement of Assets & Liabilities			
Bank Balances	449,914,741	453,621,762	**3,707,022**
Receivables	14,812,211	14,812,211	**0.00**
District Funds	17,304,085	0	**(17,304,085)**

No explanation has been provided for the failure to carry forward the correct opening balances.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of receipts and payments and statement of assets for the year ended 30th June 2016 shows different opening balance with the closing balances of audited statements of 2014/15 financial year. However, in the subsequent financial statements the difference were restated as per provision of IPSAS 3(54), for the year ended 30th June 2016,

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that in the subsequent financial statements the difference were restated as per provision of IPSAS 3(54), for the year ended 30th June 2016 was persuasive.

(ii) The Committee marked the matter as resolved.

417.1 Unexplained Expenditure Differences Between the Trial Balance and the Financial Statements

The statement of receipts and payments reflects total expenditure of Kshs.879,000,259 while the trial balance reflects total expenditure of Kshs.1,171,005,315 in respect of purchase of goods and services and other grants and transfer payments. The resultant difference of Kshs.292,005,056 has not been reconciled as shown below.

Expenditure	Statement of Receipts and Payments Kshs.	Trial Balance figures Kshs.	Difference Kshs.
Purchase of Goods and Services	116,209,001	98,725,315	17,483,692
Other Grants and transfer and Payments	762,791,258	1,072,280,000	309,488,742
Total	**879,000,259**	**1,171,005,315**	**292,005,056**

Further, no schedules were provided to support the expenditure amounts including compensation of employees total payments of Kshs.31,494,053. In the circumstances, the accuracy of the financial statements as presented could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the trial balance amounts differed with the Financial Statement figures at the time of Audit. However the same was subsequently reconciled and availed for audit review

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the resultant difference of Kshs.292,005,056 has not been reconciled was persuasive. However, no schedules were provided to support the expenditure amounts including compensation of employees total payments of Kshs.31,494,053 for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendation

(i) The Accounting Officer must,within three (3) months of adoption of this report, ensure that they submit schedules to be provided to support the expenditure amounts including compensation of employees total payments of Kshs.31,494,053for audit review.

(ii) Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

417.2 Bank Balances

The statement of financial assets as at 30 June 2016 reflects a bank balance of Kshs.550,299,496 while the cash book reflects a figure of Kshs.509,726,817 resulting in a difference of Kshs.40,572,679 which has not been reconciled. Further, the cash book balance was not supported by annual board of survey certificates as required. In the circumstances, the accuracy and completeness of the bank balance of Kshs.550,299,496 in the statement of financial assets could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the difference between cash book and bank statement was as a result of reconciling items at the close of the financial year. Bank reconciliation statement as at 30th June 2016 was provided for audit review. Further a copy of annual board survey certificates is attached to confirm the accuracy of bank balance in the financial Statement

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining that the Bank reconciliation statement as at 30th June 2016 and copies of annual board survey certificates was provided for audit reviewwas persuasive.**
(ii) **The Committee marked the matter as resolved.**

417.3 Account Receivables (Clearance)

As previously reported in 2014/2015, the statement of assets and liabilities reflected receivables balances of Kshs.14,812,212 as at 30 June 2015. However, no analysis has been provided to support the nil receivables' balance as at 30 June 2016.

Further, the statement of assets and liabilities reflects a nil balance of District Funds from the previously stated balance of Kshs.17,304,085 as at 30 June 2015. No supporting documents have been provided showing how the Kshs.17,304,085 balance was cleared.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of assets and liabilities reflected receivables balances of Ksh 14,812,212 as at 30 June 2015. Balance of Kshs 14,812,212 as at 30th June 2015 related to refunds due from Postal Corporation of Kenya and Equity Bank Ltd of Kshs 5,952,212 and 8,860,000 respectively. The refunds thereafter were made in the subsequent Financial Year.

Further, the receivable balance of Kshs 17,304,085 as at 30th June 2015 relates to AIES to field offices for Cash Transfers- Orphans and Vulnerable Children. The AIE refunds were made in the following financial year.

Committee Observations and Findings

(i) **The submission tabled by the Accounting Officer explaining analysis has been provided to support the nil receivables' balance as at 30 June 2016 of Kshs.14,812,212 was persuasive. However, no explanation was submitted indicating whether supporting documents have been provided showing how the Kshs.17,304,085 balance was cleared.**
(ii) **The Committee marked the matter as unresolved.**

Committee Recommendation

(i) **The Accounting Officer must, within three (3) months of adoption of this report, ensure that they submit supporting documents showing how the Kshs.17,304,085 balance was cleared for audit review.**
(ii) **Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.**

417.4 Unaccounted for Salary Deductions

During the year under review, a total of Kshs.696,560 was recovered from various officers' salaries in respect of unsurrendered imprests taken under the project. However, these deductions were not posted in the cash book and were therefore not accounted for. The cash book balance of Kshs.550,299,496 as at 30 June 2016 is therefore understated by Kshs.696,560.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that during the year under review, a total of Kshs 696,560 was recovered from various officers' salaries out of unsurrendered imprest taken under the project. The same is accounted for through direct journal transfer into salary account (Item) and may not necessarily be receipted and posted in the cash book.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that Kshs 696,560 was recovered from various officers' salaries out of unsurrendered imprest taken under the project and the same was accounted for through direct journal transfer into salary account (Item) and was not necessarily be receipted and posted in the cash bookwas persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendation

(i) The Accounting Officer must, within three (3) months of adoption of this report ensure that they submit the reconciled cash book balance with Kshs.696,560 was recovered from various officers' salaries in respect of unsurrendered imprests taken under the project not posted in the cash book and not accounted for audit review.

(ii) Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

417.5 Non-Disclosure of Foreign Account Balance

The Special Account Statement maintained at the Central Bank of Kenya for Grant No.097272-KE reflects foreign currency balance of USD 2,876,006 (equivalent to Kshs.290,770,502) while the financial statements as at 30 June 2016 reflect nil balance. No reasons have been provided for the non-disclosure of the closing balance in the project account.

Submission by Accounting Officer

The Accounting Officer submitted that the project does not maintain a special account in foreign currency in Central Bank of Kenya, but it maintains only one account, Account Number 1000311304, in Kenya Shillings.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the project does not maintain a special account in foreign currency in Central Bank of Kenya, but it maintains only one account, Account Number 1000311304, in Kenya Shillings was satisfactory.
(ii) The Committee marked the matter as resolved.

418. Budgetary Control and Performance

418.1 Income

A comparison of budget against the actual receipts for the Cash Transfer for Orphans and Vulnerable Children (CT-OVC) Grant Number 097272-KE revealed that the projects received Kshs.992,359,840 against a budgetary provision of Kshs.1,611,600,424 resulting in a difference of Kshs.619,240,584 or 38.4%.

No explanation has been provided for failure to receive of 38.4% of budgeted proceeds from the foreign grants totalling Kshs.619,240,584.

Submission by Accounting Officer

(i) Proceeds from Foreign Grants.

The Accounting Officer submitted that it was true that there was underutilization of grant from External Development Partners. The underutilization of the Kshs.619, 240,584.00 was occasioned by the following:-

- Delay in up-loading of the supplementary budget.
- The mass movement of the Public Financial Management Officers that negatively affected the operations of the Ministries/Departments.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the underutilization of the Kshs.619, 240,584.00 was occasioned by delay in up-loading of the supplementary budget and the mass movement of the Public Financial Management Officers that negatively affected the operations of the Ministries/Departmentswas persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.
(ii) The Committee marked the matter as resolved.

418.2 Expenditure

Similarly, an analysis of the projects' actual expenditure against the budgeted amount revealed that the project spent Kshs.910,494,318 against a budget of Kshs.1,611,600,424 resulting in difference of Kshs.701,106,106 or 43.5% which has not been explained.No reasons have been provided for the failure to spend Kshs.701,106,106 or 43.5% of the budgeted expenditure. In the circumstances the projects goals and objectives may not have been achieved as planned.

Submission by Accounting Officer

The Accounting Officer submitted that it was true there were variances in the actual expenditure against the budgeted amounts as tabulated here below and wish to respond as follows:-

Description	Budget Kshs.	Actual Kshs.	Excess (+) Shortfall (-) Kshs.	%Variance Kshs.
Compensation of Employees	61,600,000.00	31,494,053.00	(30,105,947.00)	(48.8%)
Purchase of Goods & Services	558,320,424.00	116,209,007.00	(442,111,417.00)	(79.1%)
Other grants and transfer payments	991,680,000.00	762,791,258.00	(228,888,742.00)	(23.1%)
TOTALS	**1,611,600,424.00**	**910,494,318.00**	**(701,106,106.00)**	**(43.5%)**

(a) Compensation of Employees

The underutilization of Kshs.30, 105,947.00 was caused by the delay in recruiting contracted staffs for National Safety Net Programme. The Contracted staffs joined the service in January 2016(mid-financial year 2015/16).

(b) **Purchase of goods and services**.

The underutilization of Kshs.442, 111,417.00 was caused by the mass movement of the Public Financial Management Officers that negatively affected the operations of the Ministries/Departments.

- Delay in up-loading of the supplementary budget.

(c) Other grants and Transfer Payment

It was true statement reflected underutilization of Kshs.228, 888,742.00, due to overlapping in cash transfer payment cycle which may not necessarily coincide with the financial year periods.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining reasons have for the failure to spend Kshs.701,106,106 or 43.5% of the budgeted expenditure was persuasive.

(ii) The Committee marked the matter as resolved.

419. Unsupported Expenditure

419.1 Training Expenses

During the period under review, payments totalling Kshs.5,873,200 were made to various officers to cater for daily and foreign subsistence allowance and transport costs. Included in the above amount is Kshs.1,426,500 paid to various officers attending a workshop on “Monitoring and Learning event, and Complaints and Grievances sensitization” in Nakuru. However, the payment vouchers were not supported by attendance lists and travel documents. In addition, the balance of Kshs.4,446,700 was paid to officers attending training at ESAMI in Tanzania, to cater for their foreign subsistence allowance and transport costs but the respective payment vouchers were also not supported by attendance lists and travel documents.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that during the period under review, payments totaling Kshs 5,873,200 were made to various officers to cater for daily and foreign subsistence allowance and transport costs and the payment vouchers were not supported by attendance lists and travel documents. However the same has been availed for audit review. Copies of certificates as a proof of training were availed for audit review**.**

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that during the period under review, payments totaling Kshs 5,873,200 were made to various officers to cater for daily and foreign subsistence allowance and transport costs and the payment vouchers supported by attendance lists and travel documents, and copies of certificates as a proof of trainingwere availed for audit reviewwas persuasive.

(ii) The Committee marked the matter as resolved.

Committee Recommendation

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

419.2 Trainings and Workshop

During the year under review, a total Kshs.11,286,403 was paid from the project on account of daily subsistence allowance, transportation, stationery and hire of conference facilities. However, activities with an expenditure totalling Kshs.3,961,700 were not clearly spelt out or included in the approved annual work plans.

In the circumstances, it has not been possible to confirm the propriety and eligibility of the expenditure of Kshs.11,286,403 under the grant funds or confirm whether the project got value for money.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that during the year under review, a total of Kshs.11, 286,403 was paid from the project account of daily subsistence allowance, transportation, stationery and hire of conference facilities. However activities with an expenditure totaling Kshs.3,961,700 were not included in the approved work plan. The expenditure related to event preparation which could not have been planned for with certainty.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining that activities with an expenditure totaling Kshs.3,961,700 were not included in the approved work plan as the expenditure related to event preparation which could not have been planned for with certaintywas persuasive.**

(ii) **The Committee marked the matter as resolved.**

19.0. MINISTRY OF ENERGY AND PETROLEUM

FINANCIAL STATEMENTS FOR VOTE 1151

Eng. Dr. Joseph Njoroge and Mr. Andrew Kamau, the Accounting Officers for Vote 1151, Ministry of Energy and Petroleum appeared before the Committee on 14th January 2019 to adduce evidence on the audited Financial Statements of Vote 1151 Ministry of Energy and Petroleum for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. They were accompanied by the following Officials:

1. **Mr. Moses Gifari - Assistant Act General;**
2. **Mr. Charles Wanyoike - Chief Finance Officer;**
3. **Mr. Chrispin O. Lupe - Chief Geologist;**
4. **Eng. Benson Mwakina - Director Renewable Energy;**
5. **Mr. Fredric Kason - Personal Assistant to PS;**
6. **Ms. Stella Ndumi William - Geologist Petroleum;**
7. **Mr. Mathew Musyoka - Deputy Chief Finance Officer;**
8. **Mr. Charle Kinyagi - Assistant Accountant General Petroleum;**
9. **Mr. Muriithi Ngundo - Chief Accountant; and**
10. **Mr. Justus Omuga - Senior Finance officer**

Basis for Qualified Opinion

420. Land without Title Deeds

As reported in previous year, the Ministry does not have title deeds for eight (8) of the parcels of land it owns totalling 40.11 hectares in size and valued at approximately Kshs.336,549,200. The land parcels are located in Kakamega, Kericho, Kisii, Kitui, Migori, Meru, Uasin Gishu and Nyeri. Particulars of the land parcels and their current conditions are as detailed below:-

No	Land Parcel	Hectares	Location (County)	Approximate Value (Kshs)	Condition
1	Kericho Energy Centre	0.07	Kericho	3,049,200.00	Developed and fenced
2	Kisii Energy Centre	4.00	Kisii	160,000,00.00	Developed, fencing underway
3	Migori Energy Centre	0.40	Migori	2,200,000.00	Developed but unfenced
4	Bukura Energy Centre	2.00	Kakamega	3,500,000.00	Developed but unfenced
5	Uasin Gishu Energy Centre	0.80	Uasin Gishu	12,000,000.00	Developed and fenced
6	Kitui Energy Centre	10.60	Kitui	53,000,000.00	Partially developed, fencing underway
7	Wambugu Energy Centre	4.00	Nyeri	80,000,000.00	Developed but unfenced
8	Mitunguu Energy Centre	18.24	Meru	22,800,000.00	Only 2 hectares is developed and fenced off
Total		**40.11**		**336,549,200.00**	

Information available indicates that the process of acquiring titles for the mentioned land parcels, has been underway for significantly long durations. From the foregoing, it has not been possible to verify the rightful ownership of these properties as well as the risk of being encroached upon by squatters and land grabbers.

Submission by Accounting Officer

The Accounting Officer admitted that the Ministry does not have Title Deeds for the parcels of land occupied by Kericho, Kisii, Migori, Bukura, Uasin Gishu, Kitui, Wambugu and Mitunguu Energy Centres. They concur that it was necessary to obtain title deeds for all lands occupied by all Energy Centres as evidence of ownership and to forestall any potential encroachment. In addition, all the Energy Centres have effectively fenced off the land they currently occupy as a deterrence of any potential encroachment.

To this end, the Ministry has in the past years actively and consistently pursued the issuance of land titles for the Energy Centres as evidenced by a trail of communications to the Ministry of Lands ME/5/1/33/5 dated 20th February 2015, ME/5/1/33/10 dated 21st April 2015, ME/5/1/33/5 dated 3rd June 2015, MOEP/5/1/33/5 of 4 January 2016, MOE/5/1/33/5 dated 25th September 2018, and MOE/MEC/Land/27/42 dated 17th October 2018.

The Accounting Officer further reported that the Ministry has formed an inter-ministerial committee incorporating representatives from the Ministry of lands as evidenced in department correspondence Ref. No. MOEP/5/1/33/5 dated 25th September 2018 and a follow up Ref. No. MOEP/5/1/33/5 dated 30th January 2019**.** The Ministry of Lands have vide their letter Ref. No. MOLPP/ADMIN/1/19(26) and dated 5th January 2019 appointed their nominee to the inter-ministerial committee. He believed, with the above measure, he will be able to conclusively address the matter.

In addition, all the Energy Centres have effectively fenced off the land they currently occupy as a deterrence of any potential encroachment. The specific details of the measures that respective Energy Centres have been making towards acquisition of title deeds is provided hereunder.

Kisii Energy Centre

The Accounting Officer submitted that the Kisii Energy Centre has no land of its own. It is situated on Kisii Farmers Training Centre of the Ministry of Agriculture through the MOU signed between the Ministries following the revocation of the MOU, the Ministry of Energy initiated the process of searching for suitable land for relocating the Centre. Notwithstanding the revocation of the MOU, the Ministry of Energy and Petroleum vide its letters Ref. No. ME/5/1/33/5 dated 20th February 2015 and 3rd June 2015 requested the host Ministry to fast track issuance of the title deed for the Centre dated 20th February 2015, also refer to ME/5/1/33/5 dated 3rd June 2015.

Bukura Energy Centre

The Accounting Officer stated the Centre does not have land of its own but is located in Bukura Agricultural Training Centre of the Ministry of Agriculture which is Government land. The Centre was located within the Ministry of Agriculture's FTC following an MOU that was signed between the Ministries. At the time when Ministries were advised to have title deeds for the lands they occupied, the Ministry of Energy and Petroleum vide its letters Ref. No. ME/5/1/33/5 dated 20th February 2015 and 3rd June 2015 requested the host Ministry to fast track issuance of the title deed for the Centre ME/5/1/33/5 dated 20th February 2015 and ME/5/1/33/5 dated 3rd June 2015.

Kitui Energy Centre

The Accounting Officer stated that Kitui Energy Centre occupies 10.4 ha of land that was given by Kitui Municipality. The land was surveyed and advertised in the Daily Nation on 19th October 2010. The demarcation and beaconing was done as shown in letters Ref. No.KTI/CT85/Vol 6/16/13 dated 20th June 2017 and MOE&P/KTI/Land/05/7/2017 also dated 20th June 2017. Efforts have been made to obtain the title deed as evidenced by our reminders such as MOE/KTI/Land/4/7/01/2018 dated 21st June 2017**.** The Ministry undertakes to intensify the efforts to obtain the title deed as necessary.

Kericho Energy Centre

The Accounting Officer corrected the fact that Kericho Energy Centre occupies 0.80 hectares of land, not 0.07 hectares as reported. On 4th June 2007, the Ministry of Lands on behalf of Kericho County Council submitted an allotment letter for this parcel of land to the Treasury seeking acceptance of the same and payment of rates.

The Ministry of Energy through the Centre Manager, Kericho subsequently accepted the allotment vide letter Ref. ME/KE/PLOT/Vol. 1/30 of 6th April 2011 Also, the Ministry has on diverse dates written to the Ministry of lands Housing and urban Development to seek assistance in fast tracking the processing of title deeds ME/5/1/33/5 dated 20th February 2015, ME/5/1/33/5 dated 3rd June 2015, ME/5/1/33/5 dated 21st December 2015. This has so far not yielded the desired fruit.

Wambugu Energy Centre

The Accounting Officer stated Energy Centre is located within Wambugu Agricultural Training Centre. Under an agreement with Ministry of Agriculture, the land was jointly purchased from Wambugu family in 2009 and in which the Ministry of Energy and Petroleum paid Kshs. 10,805,356 against MR receipt No. 1405894 as evidenced by. After the purchase, the Ministry of Agriculture promised to enter into sale agreement upon processing the land acquisition and the Ministry of Energy paying demarcation and transfer charges for 4 hectares. In March 2014, the land ownership was taken over by the Government and is therefore a state land as evidenced in.

On 21st April 2015, the Ministry communicated to the Ministry of Agriculture requesting to relocate the Energy Centre into the land that the Ministry of Energy had purchased as seen in videME/5/1/33/10 dated 21st April 2015. In 28th February 2015, Wambugu ATC was formally devolved to the County Government and as a result, the Ministry of Agriculture advised the Transition Authority to assist Ministry of Energy and Petroleum to acquire the 4 hectares which had been paid for as seen in vide MOA/INST/6/2/7/84 dated 6th May 2015. Further, the Ministry recently wrote to the Governor, Nyeri County seeking concurrence for the Ministry to access the 4 hectares which the Ministry had paid for as shown in videMOEP/5/1/33/5 of 4 January 2016. Also refer to.

The foregoing clearly shows the Ministry has been and will continue to actively pursue the land title deed for Wambugu Energy Centre.

Mitunguu Energy Centre

The Accounting Officer stated that Mitunguu Energy Centre is one of the new Centres. The Centre occupies 5 acres and another 100 acres of land in a separate site allocated to the Centre by Meru County Council in January 2009. In May 2009, the Ministry wrote to Ministry of lands seeking for the lifting of the reservation which had previously been put on the 100 acres.

For the 5 acres where the Centre is located, the process of the title deed issuance is ongoing as evidenced by the letter MER/LA/PBL SITES/Voll II/24 of 8th May 2018.

Migori Energy Centre

The Accounting Officer stated Centre stands on 0.4 ha piece of land. The Ministry has been pursuing a response on this matter and so far no response has been given. Previously, a gazette advert was carried out on 18th June Gazette Notice No. 4670 and a PDP plan ref. No. MIG/133/2004/2 had been received ME&P/MEC/LAND/27/39 dated 3rd June 2015. Furthermore, the Ministry initiated and is continuing with the search for alternative land to relocate the Centre.

Uasin Gishu Energy Centre

The Accounting Officer stated that the centre occupies 1.5 acres of land. Efforts to get the title deed are ongoing. The Ministry of Energy and Petroleum vide its letters Ref. No. ME/5/1/33/5 dated 20th February 2015 and 3rd June 2015 requested the host Ministry to fast track issuance of the title deed for the Centre - ME/5/1/33/5 dated 20th February 2015 and also ME/5/1/33/5 dated 3rd June 2015.

Land Title Deeds

The Accounting Officer stated that on the issue of title deeds, the Ministry has in addition to previous requests to the Ministry of Lands to fast track the issuance of title deeds in respect of various Energy Centres, proposed the formation of an inter-ministerial committee to help address the matter MOEP/5/1/33/5 of 25th September 2018. Further through our correspondence Ref. No. MOEP/5/1/33/5 dated 30th January 2019 a reminder was sent seeking for the names of the nominees of the Ministry of lands to enable the inter-ministerial committee to begin its work.

Committee Observation and Finding

(i) The Committee asked for and obtained from the Accounting Officer a list of the 16 energy centers owned by the State Department across the Country.

(ii) The committee marked the matter as unresolved.

Committee Recommendation

The Accounting Officer must, within three (3) months of adoption of this report, secure the land and commence the process of acquiring the title deeds to the landin Kericho, Kisii, Migori, Bukura, Uasin Gishu, Kitui, Wambugu and Mitunguu Energy Centres pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

Other Matter

421. Utilization of Mitunguu Energy Resource Centre

As previously reported in 2012/2013, the Ministry expended amounts totaling Kshs.44,636,192.00 to put up Mitunguu Energy Resource Centre with the completion and hand over date of 25thJuly 2013. As indicated in 2013/2014 audit report, the viability of the Centre due to non-optimal utilization was questioned. The management in its response to the Public Accounts Committee (PAC) sitting committed to fully operationalize the Centre and provided a business plan. However, information available indicate that the facility continues to remain idle as the business plan is yet to be implemented. Under the circumstances, it has not been possible to confirm whether there was value for money in respect of the expenditure of Kshs.44,636,192.00 incurred in putting up the Energy Centre.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that at the time of audit, the Energy Resource Centre was not fully operational and many of the physical facilities were idle. As a result, it was deemed not possible to confirm whether there was value for money in respect of the expenditure for Kshs.44,636,192.00 incurred in putting up the Centre.The major reason for the non-optimal utilization was lack of requisite furniture and associated support facilities.

We wish to confirm that requisite furniture, associated facilities and other necessary supplies have now been achieved. These include:-

- Furniture for Conference hall,
- Furniture for the Board room,
- Furniture for the reception area,
- bedding for the hostel,
- installation of institutional cookers at the kitchen,
- construction of borehole and ablution block, and
- Purchase of on-station renewable energy technology demonstrations.

As a result, the business plan has now been implemented. The details of the foregoing including photographic views of the installations are provided hereunder.

i. Procurement of furniture for the conference facility which include 30 rectangular conference hall tables were procured, 180 banquet fabric chairs, 2 podiums, 2 cabinets and window curtains to make the hall comfortable for use. The hall is now usable.

ii. **Board Room**

The boardroom is now usable having acquired the necessary conference hall table 20 participant capacity with cable management and 20 high back seats as illustrated by Figure 9 and Figure 10.

iv. **Reception Area**

The centre acquired the necessary 4No. Metal link chairs as shown in Figures 11 and 12 below.

iv. Hostels.

The hostel rooms were also furnished with the necessary 34 beds, 34 heavy duty mattresses, 136 bed sheets, 34 blankets, 34 checked green bedcovers, 68 peach towels, 48 medium weight pillows and 72 hostel curtains as illustrated in Figures 13 and 14. These rooms are now ready for use.

v. Kitchen.

The kitchen was equipped with a microwave and the required curtains and sheers bought.
Institutional stoves have also been constructed in the kitchen as seen in Figure 9 below. Also, the platform for RETs demonstration e.g. solar water heaters, parabolic cookers and other technologies have been constructed.

vi. Perimeter Fence

A perimeter Fence has been constructed around the Resource Centre as well as a gate to secure and protect the Centre. Part of the fence is shown in Figures 10 and 11.

vii. **Grounds**

The Centre has recently acquired a 4.5 HP Briggs & Stratton lawn mower to take care of the grounds shown in Figure 12.

viii. **Borehole**

A borehole has been dug at the Centre to provide a sustainable and adequate source of water and has thus resolved the perennial water shortage problem as shown by Figures 13, 14, 15 and 16.

Ix. **Ablution block.**

An ablution facility has been constructed and fitted with a 200ltrs solar water heater for use in the Bathrooms and for technology demonstration aspects as shown in Figures 17 and 18.

x. **On-station Technology Demonstration**

Three (3) months Dayliff Ultrasun solar water heaters for mounting on the centre grounds for technology demonstration purposes have been acquired as seen in Figure 19. This is in addition to the previously installed technology demonstrations including improved cook stove workshop, energy efficient kilns and tree seedling production nursery.

In summary, substantial progress has been made in operationalizing the Energy Resource Centre. An official launch of the Centre is planned soon. The Ministry is addressing the outstanding issues including the requisite catering personnel.

Committee Observation and Finding

The Committee marked the matter as resolved since the explanation given by the Accounting Officer was satisfactory.

422. Budget Control and Performance

422.1 Budgetary Absorption

During the year under review, the approved final budget of the Ministry of Energy and Petroleum was Kshs.96,798,723,812 with Kshs.2,090,126,466 (2%) allocated to recurrent expenditure and the remainder Kshs.94,708,597,346 (98%) to development. Of the total approved budget, Kshs.73,557,938,019 (76%) was absorbed, resulting in under absorption of Kshs.23,240,785,793 (24%) as summarized below:

Receipt/Expense Item	**Budget Allocation**	**Actual**	**Budget Utilisation Difference**	**% of Utilisation**
Kshs		Kshs	Kshs	%
Compensation of Employees	359,423,537.00	327,665,540.00	31,757,997.00	91
Use of goods and services	1,290,817,571.00	955,197,343.00	335,620,228.00	74
Grants and Transfers to Other Government Entities	36,992,572,128.00	36,986,572,128.00	6,000,000.00	100
Other Grants and Transfers	6,000,000.00	6,000,000.00	-	100
Social Security Benefits	6,000,000.00	-	6,000,000.00	-
Acquisition of Assets	58,143,910,576.00	35,282,503,008.00	22,861,407,568.00	61
Total	96,798,723,812.00	**73,557,938,019.00**	**23,240,785,793.00**	76

The under absorption of approved budget is an indicator of non-implementation of activities and projects in the annual work-plan by the Ministry. This is likely to have negative impact on delivery of goods and services to the Kenyan citizens.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that during the year under review, the Approved final Budget was Kshs.96,798,723,812.00 and out of this Kshs.73,557,938,019.00 was absorbed resulting into an under absorption of Kshs.23,240,785,793.00 which is equivalent to 24% of the total budget. This was brought about by the following issues;

Under compensation of employees, the final approved budget of Kshs. 359,423,537.00 out of Kshs. 327,665,540.00 was absorbed resulting into an under absorption of Kshs. 31,757,997.00 which is equivalent to 9% of the total compensation of employees budget.

A budget provision of Kshs. 35 million had been made to cater for the upgrading of the technical staff and casual staff requirement under all Ministry's directorates. However, the upgrade was delayed hence making it difficult to utilize the funds. Implementation of staff upgrading was effected in the subsequent financial year 2016/17 **Ref. PSC/EMC/14/ (5)**. Only Kshs. 3 million was utilized for upgrade in financial year under review.

1. Under the use of goods and services; the final approved budget was Kshs.1,290,817,571.00 and out of this Kshs.955,197,343.00 was absorbed resulting into an under absorption of Kshs.335,620,228.00 which is equivalent to 26% of the total use of goods and services budget.
2. The under absorption was as a result of budgetary constraint of counterpart funding which is a prerequisite to spend donor funds on projects. Moving forward the Ministry has since engaged with the implementing agencies and the National Treasury External Resource Mobilization Department to ensure foreign financing budget under projects is utilized as per counterpart funds available.
3. Regarding acquisition of Assets, the final approved budget was Kshs. 58,143,910,576.00 and out of this Kshs. 35,282,503,008.00 was absorbed resulting into an under absorption of Kshs. 22,861,407,568.00 which is equivalent to 39% of the total acquisition of Assets budget. The under absorption was a result of aforementioned reasons in 2 above.

Committee Observations and Findings

The Committee observed that the paragraph was for the information purposes to the State Department and the Accounting Officer was directed to take note of the concerns raised by the Auditor General and improve on the same.

Committee Recommendation

The Cabinet Secretary for the National Treasury should put in place robust management systems in government that ensure there is timely dispute resolution whenever it arises to enable financing ofgovernment programmes and projects to avoid cases of under-utilization of the budget.

422.2 Development Budget

According to the summary statement of appropriation-development for the year ended 30th June 2016, the Ministry had a budgetary allocation of Kshs.94,708,597,346.00 for development projects of which Kshs.71,543,431,557.00 (76%) was expended resulting in under expenditure of Kshs.23,165,165,789.00 or 24% of budget as analysed below:

Expenditure Item	**Budget Allocation**	**Actual Expenditure**	**Under Expenditure**	**% of Utilisation**
Kshs		Kshs	Kshs	%
Compensation of Employees	12,200,000.00	9,621,074.00	2,578,926.00	79
Use of goods and services	1,099,121,698.00	793,164,000.00	305,957,698.00	72
Grants and Transfers to Other Government Entities	35,465,993,516.00	35,459,993,516.00	6,000,000.00	100
Other Grants and Transfers	6,000,000.00	6,000,000.00	-	100
Acquisition of Assets	58,125,282,132.00	35,274,652,967.00	22,850,629,165.00	61
Total	**94,708,597,346.00**	**71,543,431,557.00**	**23,165,165,789.00**	**76**

The under expenditure of Kshs.23,165,165,789.00 implies that the Ministry did not implement or complete some of the projects as planned and hence the intended objectives for the year ended 30th June 2016 were not fully achieved.

Committee Observations and Findings

The State Department's financial statements development appropriation accounts for 2015/2016 revealed a budgetary allocation of Kshs.94,708,597,346.00 for development projects of which Kshs.71,543,431,557.00 (76%) was expended resulting in under expenditure of Kshs.23,165,165,789.00 or 24% of budget.

Committee Recommendation

The Cabinet Secretary for the National Treasury should put in place robust management systems in government that ensure there is timely dispute resolution whenever it arises to enable financing of government programmes and projects to avoid cases of under-utilization of the budget.

PETROLEUM DEVELOPMENT LEVY FUND

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this fund.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that as noted in the Auditor General report that there was an under absorption of approved development budget and the reasons have been explained in matter no. 422.1 above. Some of the projects implemented spilled over to the subsequent financial year 2016/17.

It was true that during the year under review, the Development Budget of Kshs. 94,708,597,346.00 experienced an under absorption of Kshs.23,165,165,789.00 which was equivalent to 24% of the total Development budget.

The accounting officer stated that the overall under absorption is mainly related to the Development Budget. Hence the explanations given under matter number 422.1 still applies.

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

Other Matter

423. An Unauthorized Expenditure

The statement of receipts and payments and as disclosed under note 3 to the financial statements reflects an expenditure of Kshs.64,370,315.00 under use of goods and services. There was no budgetary provision for this expenditure category. Consequently, the Fund is in breach of the Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer submitted that it was true thatthe statement of receipt and payments as disclosed under note 3 to the financial statements reflects an expenditure of Kshs.6,370,315.00 under use of goods and services. There was no budgetary provision for this expenditure category consequently the fund is in breach of the public finance management Act, 2012.

On the matter, the accounting officer stated that the expenditure ought to have been classified under acquisition of assets but was classified under use of goods and services. This error has since been identified and the corrected in the subsequent financial statements.

Committee Observation and Finding

The committee observed that the query has been resolved since the financial statements had been corrected.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

PETROLEUM TRAINING FUND

Basis for Qualified Opinion

424. Revenue Due

The statement of receipts and payments reflects Contributions from Oil Companies amounting to Kshs.558,349,996.00, as disclosed under note 1 to the financial statements (2015, Kshs.391,317,711.00). Available information however, indicates that eight (8) oil companies did not remit their annual training contributions and surface fees contributions amounting to USD 7,445,042.00 or Kshs.754,147,743.00, contrary to Clause 5(2) and clause 13(2) respectively, of their individual Production Sharing Contracts (PSC). Had the amounts been paid, the Fund would have reported a surplus for the year of Kshs.724,311,785.00 instead of the current deficit of Kshs.29,835,958.00.

Submission by Accounting Officer

The accounting officer admitted that the statement of receipts and payments reflects contributions from Oil Companies amounting to Kshs.558,349,996.00 as disclosed under note 1 to the financial statements (2015, Kshs.391,317,711.00). Available information however, indicates that eight (8) oil companies did not remit their annual training contributions and surface fees contributions amounting to USD.7,445,042.00 or Kshs.754,147,743.00, contrary to clause 5 (2) and clause 13 (12) respectively or their individual production sharing contracts (PSC).

He stated that reminder letters have been sent to the affected companies to honour their contribution obligations in respect of annual training contributions. However, we are yet to receive their contributions.

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

Other Matter

425. Excess Expenditure Over Approved Budget

As previously reported and during the year under review, the Ministry also, incurred expenditure totaling Kshs.576,187,396.00 on payments for use of goods and services, in comparison to an approved budget of Kshs.487,000,000.00, resulting in a budget overrun of Kshs.89,187,396.00 or 18%. The Ministry is therefore in contravention of Section 43 (2)(C) of the Public Financial Management Act, 2012 which requires entities to seek and obtain supplementary approval for expenditure exceeding 10% of the approved budget.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry also incurred expenditure totaling to Kshs.576,187,396.00 on payment for use of goods and services in comparison to an approved budget of Kshs.487,000,000.00 resulting in a budget overrun of Kshs.89,187,396.00 or 18%. It was also true that the Ministry is therefore in contravention of section 43(2) (c) of the Public Financial Management Act 2012 which requires entities to seek and obtain supplementary approval for expenditure exceeding 10% of the approved budget.

The Accounting Officer stated that the budget overrun was as a result of budgetary cut/reduction during the supplementary issue. It should be noted that the budget reduction was effected when expenditure was already incurred. However measures have been put in place to ensure that the Ministry adhere to the approved budget and the approved annual work plan to ensure that we don't overrun the approved budget in the subsequent years.

Committee Observations and Findings

(i) The Committee was informed that there was an error and that the State Department would reduce its expenditure to recover the over expenditure incurred in the previous year.

(ii) The Committee marked the matter as resolved.

Committee Recommendation

Accounting Officers must ensure that they obtain supplementary approval for approved expenditure exceeding 10% pursuant to the provisions of section 43(2) (c) of the Public Finance Management Act, 2012.

426. Budget Performance

The statement of comparative budget and actual amounts for the year under review reflects an approved budget of Kshs.63,000,000.00 in respect of acquisition of assets. However, there was nil utilization under this item during the year. Management has not explained why it was not able to utilize the budgeted amounts. In absence of utilization of budgeted funds, it is not possible to confirm that there was effective delivery of the intended services.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of comparative budget and actual amounts for the year under review reflects an approved budget of Kshs.63,000,000.00 in respect of acquisition of assets. However, there was nil utilization under this item during the year under review.

He stated that there was an error when classifying expenditure because an expenditure under the purchase of tree seedlings and payments to companies were involved in tree planting which should have been classified under the heading acquisition of assets. However, measures have been put in place to classify expenditure in their appropriate classification.

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

427. Non remittance of Community Project Funds

The production sharing contract for individual Oil Companies under Clause 13(3) requires the contractors to pay minimum fees per year to the Government for the benefit of local communities. During the year under review, three (3) months Oil Companies did not pay their contributions amounting to Kshs.22,000,000.00 to the Government contrary to the contracts in place. According to management, the contractors disbursed the funds directly to the community projects. However, no document was provided to confirm that the unremitted amounts were actually spent directly on the community projects. In the circumstances, it was not possible to confirm whether the disbursements were made for benefit of the intended community.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the production sharing contract (PSC) for individual Oil Companies under Clause 13 (3) requires the contractors to pay minimum fees per year to the Government for the benefit of local communities. As reported in 2015/2016 report and during the year under review, three (3) months Oil Companies did not pay their contribution amounting to Kshs.22,000,000.00 to the Government contrary to the contracts in place. According to the management, the contractors in place disbursed the funds directly to the community project. In the circumstances, it was not possible to confirm whether the disbursements were made for the benefit of the intended community.

BG Group operator of Blocks L10A and L10B remits Community Projects Funds directly into the Petroleum Training Fund as stipulated in their respective Production Sharing Contracts. From the attached extracts from the bank's account statement the company BG Group remitted the Community Project Funds money as well as the surface and training fees into the account.

Anadarko remits Community Project Funds to National Oil Corporation of Kenya (NOCK) account as requested by the Ministry hence NOCK undertakes the community projects on behalf of Anadarko.A-Z Petroleum Ltd operator of Blocks L1A and L3 which are located at the border of Kenya and Somalia has requested various extensions to the exploration period Production Sharing Contracts (PSCs) to which the Ministry has consented to due to insecurity issues along the border.

The company has not been able to carry out work program as stipulated in the PSC including undertaking community projects. The Ministry confirms that once the security issues are resolved the company will embark on fulfilling's the PSC work and budget obligations.

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

428. Non-compliance with Petroleum Act Cap 308

428.1 Ineligible Expenditure

Section 11 (1) and (4) of the Petroleum (exploration and production) Act Cap 308, provides that the training Fund should only be used for training Kenyan nationals in the petroleum industry. However, the statement of receipts and payments reflects payments under compensation of employees amounting to Kshs.9,741,600.00 being salaries and gratuity payments for officers as disclosed under note 3 for the period under review. The Fund is in contravention of the Act to the extent that the funds have not been used for the intended purposes.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Petroleum (exploration and production) Act cap 308 provides that the training fund should only be used for training Kenyan nationals in the petroleum industry. However, the statement of receipts and payments reflects payments under compensation of employees amounting to Kshs.9,741,600.00 being salaries and gratuity payments for officers as disclosed under note 3 for the period under review. The Fund is in contravention of the Act to the extent that the funds have not been used for the intended purpose.

The Ministry stated that it anticipated discovery of natural gas in the country as a result of the exploration effort. However, the country did not have natural gas terms and licensed oil and gas companies led by BG Group raised concerns and requested to suspend drilling operations until the Ministry developed natural gas terms to enable them make prudent investment decisions on commercialization of the discovered resources. As a result the Ministry constituted on inter-Ministerial Committee comprising of the MOE&P, National Treasury, Kenya Revenue Authority (KRA), National Oil Corporation of Kenya (NOCK) and National Environmental Management Authority (NEMA) to conduct a study to gather relevant data and information that will assist in drafting and developing of natural gas terms.

Nduta Njenga then working for NOCK was a member of this Inter-Ministerial Committee and at the time the Ministry did not have legal capacity in oil and gas expertise. It was deemed necessary to have Nduta Njenga seconded to the Ministry since it did not have legal capacity in oil and gas expertise. It was deemed necessary to have Nduta Njenga seconded to the Ministry on the basis of her fundamental skills in oil and gas acquired while working at NOCK.

This decision was arrived due to the need to make progress in fast tracking development of natural gas terms considering the fact that the office of the Attorney General at that time did not have capacity on legal expertise on oil and gas matters yet it was responsible for providing legal advice and approval of drafts such as the one we were developing on natural gas terms. In that regard, Nduta Njenga was absorbed in the Ministry to build capacity to assist in drafting of documents that would meet the standards of oil and gas industry for approval by the Attorney General.

It was on this basis that the Ministry considered taking Nduta Njenga for further specialized legal training in matters relating to oil and gas in the United Kingdom for one year from 2014 to 2015.

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

428.2 Invalid Contract with Oil Company

Section 2 (2) of the Petroleum (exploration and production) Regulations of 1984 stipulates that no person other than a company incorporated or registered in Kenya under the Companies Act may enter into a petroleum agreement with the Government. Contrary to these provisions, the Ministry entered into a Production Sharing Contract with, a company incorporated outside Kenya, on 28 June 2012. The Ministry is therefore in breach of the law.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that, the Ministry entered into a Production Sharing contract with a company incorporated outside Kenya, on 28 June 2012, contrary to Section 2 (2) of Petroleum (exploration and production) regulations of 1984, which stipulates that no person other than a company incorporated or registered in Kenya under the Companies Act may enter into a petroleum agreement with the Government.

The Ministry clarified that the contractor, Pacific Seaboard (K) Ltd wrote to us via a letter dated 24th January, 2014 requesting to effect amendments to the contract so as for it to reflect that it is a fully owned Kenyan subsidiary under the name Pacific Seaboard (K) Ltd. Subsequently the Ministry wrote to the Attorney General a letter Ref.MOE/CONF/3/2/42P dated 28th January, 2014 requesting for review and legal advice regarding the requested amendments and the matter was finalized.

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

KENYA ENERGY SECTOR ENVIRONMENT AND SOCIAL RESPONSIBILITY PROGRAMME FUND

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this fund.

Other Matter

429. Outstanding Contributions due to the Fund

The government financial management regulations under the Kenya Energy Sector Environment and Social Responsibility Programme (KEEP) Fund of 2007 Section 3(2)(b) and its ten years Action Plan (2008–2018) provides for annual contributions by state corporations and agencies under the Ministry of Energy and Petroleum into the Fund. The annual contributions receivable from Kenya Petroleum Refineries Ltd, Kenya Power Company Ltd, Kenya Electricity Generating Company Ltd, Kenya Pipeline Company Ltd, National Oil Corporation of Kenya Ltd and Energy Regulatory Commission (ERC) amounted to Kshs.2 million, Kshs.90 million, Kshs.100 million, Kshs.51 million, Kshs.5 million and Kshs.2 million respectively, all totaling Kshs.250 million. However during the year under review, only ERC made its contributions into the Fund. Available information also indicates that the total contributions outstanding from the state agencies and corporations and due to the Fund stood at Kshs.2,124,500,000.00 as at 30thJune 2016. Management has not explained why the agencies and corporations have not complied with KEEP Fund regulations by submitting their annual contributions.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the government financial management regulations under the Kenya Energy Sector Environment and Social Responsibility Programme Fund of 2007 section 3(2)(b) provides for annual contributions by State Corporations and Agencies as follows:

Kenya Petroleum Refineries	–	Kshs. 2 million
Kenya Power Company	–	Kshs. 90 million
Kenya Electricity Generating Company Ltd	–	Kshs. 100 million
Kenya Pipeline Company	–	Kshs. 51 million
National Oil Corporation	–	Kshs 5 million
Energy Regulatory Commission	–	Kshs. 2 million

It was also true that, apart from Energy Regulatory Commission, the other Agencies have not been remitting their contributions as required.The Ministry has on several occasions written letters to the concerned Agencies to remind them of their obligations (See ME/5/1/4 Vol. II dated 8th September 2016, MOEP/1/1/8/Vol. 44(76) dated 18th October 2018**).**

While majority of the Agencies did not offer explanations as to why they have not been remitting their contributions as required, KenGen, through their letter Ref. No. KGN/ECDM/GOK-SC/023/JW dated 21st December 2016 indicated that they were unable to remit their Kshs. 100 million into the Fund due to a constraint that the amount was not provided for in the set tariff structure of their Power Purchase Agreement.

At the end of the first ten-year plan and in view of the challenges hitherto experienced, the Ministry has recently resolved to incorporate representatives of the Agencies into the Fund's Programme Management Committee in the current phase of the Funds activities (See our communication Ref. No. MOEP/1/1/8/Vol. 44(76) dated 18th October 2018 and as a strategy to enable the Agencies to directly participate in the planning and execution of the activity. This way it was expected that it will be easier to follow up respective Agency contributions into the fund.

It was further noted that as per Executive Order No.1 of 2017 on reorganization of Government, some of the Agencies such as Kenya Petroleum Refineries, Kenya Pipeline Company and National Oil Corporations are no longer under the Ministry of Energy. As a result, the Fund regulation is envisaged to be amended accordingly.

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency always acts on the Auditor General's management letters to forestall audit queries.

430. Global Entrepreneurship Summit Contributions

The statement of receipts and payments under Grants and Transfers to other Government Entities reflects an amount of Kshs.19,000,000.00 and as disclosed under note 6 to the financial statements. The amount relates to transfers to the Ministry of Devolution and Planning (MDP) on account of participation in the Global Entrepreneurship Summit exhibitions for the Ministry of Energy and Petroleum and five state corporations under it of Kshs.1,000,000.00 and Kshs.18,000,000.00 respectively, with the later amount being refundable. As at the time of finalizing this report, only one corporation had refunded their portion of Kshs.5,000,000.00. The recoverability and availability of the remaining balance of Kshs.13, 000,000 to be applied for the intended purposes, could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Statement of receipts and payments under Grants and transfers to other Government entities reflects an amount of Kshs.19,000,000.00 as disclosed in the Financial Statements.

The amount relates to transfers to the Ministry of Devolution and Planning (MDP) on account of participation in Global Entrepreneurship Summit exhibitions for the Ministry of Energy and Petroleum and five State Corporations under it of Kshs.1,000,000.00 and Kshs.18,000,000.00 respectively, with amount being refundable. Further, at the time of finalizing the report only one corporation had refunded the balance of Kshs.5,000,000.00. The remaining balance of Kshs. 13,000,000.00 which had not been recovered has since been recovered during the subsequent financial year.

Committee Observation and Finding

The Committee marked the matter as resolved.

Committee Recommendation

The Accounting Officer should institute measures to ensure that the agency at all times acts on the Auditor General's management letters to forestall audit queries.

DONOR FUNDED PROJECTS
KENYA ELECTRICITY EXPANSION PROJECT (IDA CR.NO.4743-KE)

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this Project.

THE KENYA PETROLEUM TECHNICAL ASSISTANCE PROJECT (IDA CR. NO. 5526-KE)

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this Project.

20.0. STATE DEPARTMENT OF AGRICULTURE

FINANCIAL STATEMENTS FOR VOTE 1161

Dr. Richard Lesiyampe, the Accounting Officer for Vote 1161, State Department of Agriculture and Prof. Hamadi Boga, Principal Secretary Agricultural Research appeared before the Committee on 12th July, 2018 to adduce evidence on the audited Financial Statements of Vote 1161 State Department of Agriculture for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. They were accompanied by the following Officials:

1. **Mr. Kello Hassani - Admin Secretary;**
2. **Mr. Samwel Kungu – Ag. Chief Finance Officer**
3. **Mr. Joseph Ngetich - IDG – AFA;**
4. **Mr. James Wanjoi - TALRS – SDC;**
5. **Mr. Peter Chemwite – Finance Officer;**
6. **Mr. Edwin Oseko - Director Crops ADC;**
7. **Mr. Richard Aiyabe - Managing Director ADC;**
8. **Mr. Paul Njuguna - ADC Tech Manager; and**
9. **Mr. Cornel Ngelechy - NCPB – GM**

Basis for Qualified Opinion

431. Accuracy of the Financial Statements

(i) Cash and Bank Balances

The statement of assets and as disclosed in Note 22A to the financial statements reflects bank balances amounting to Kshs.450,641,073. However, these balances have not been supported with board of survey reports, bank statements and bank confirmation certificates. Review of the cash books and bank reconciliation statements revealed that the bank balance of Kshs.450,641,073 differs from the balance of Kshs.452,725,473 reflected in the cash books and bank reconciliation statements as follows-:

Account	Amount in financial statements (Kshs)	Amount in cash books & bank reconciliation Statements(Kshs)	Variance (Kshs)
Recurrent A/C	Nil	765,517	765,517
Development A/C	Nil	1,318,883	1,318,884
Deposit A/C	450,641,073	450,641,073	Nil
Total	**450,641,073**	**452,725,473**	**2,084,400**

Submission by Accounting Officer

The Accounting Officer stated that it was true tht the Statement of Asset disclosed in Note 22A a bank balance of Kshs.450,641.073 while the board of survey reports and bank statements and bank confirmationrevealed a bank balance of Ksh452,725,473.00.

The accounting officecer further stated that the bank balances under recurrent and Development vote were recovered by the Naional Treasury as unspent balance for the financial year ending which we excluded in the financial statements since unspent balance had been recovered fully.

Committee Observation and Finding

The bank balance of Kshs.450,641,073.00 as reflected in the statement of Assets differed with the balance of Kshs.452,725,473.00 shown in the cash book.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

(ii) Transfers to other Government Units

a) The statement of receipts and payments reflects a balance of Kshs.11,146,799,165 under transfers to other Government units which, however, differs by Kshs.423,832,354 from the balance of Kshs.11,570,631,519 shown in supporting documents. The resulting difference of Kshs.423,832,354 has not been reconciled.

Submission by Accounting Officer

The Accounting Officer stated that the balance reflected under receipts and payments and supporting documents have been reconciled to Kshs.11,146,799,165.

Committee Observation and Finding

The figure of Kshs.11,146,799,165.00 reflected in the statement of receipts and payments under transfers to other Government units differs from the figures of Kshs.11,570,631,519.00.The difference of Kshs.423,832,354.00 has since been reconciled.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

b) The supporting schedule for transfers to other Government Units totaling Kshs.11,570,631,519 includes an amount of Kshs.5,580,959,301 indicated to have been transferred to twenty three (23) institutions and departments. However, no evidence has been provided to confirm whether the amounts were received by the respective institutions or departments.

Submission by Accounting Officer

The Accounting Officer stated that it wastrue the supporting schedule for transfers to other government units totaling Kshs.11,570,631,519.00 includes an amount of Kshs.5,580,959,301.00 transferred to 23 institutions. The evidence and analysis has been availed for the amounts disbursed to be confirmed.

Committee Observations and Findings

The Committee noted that evidence and analysis of the disbursements have since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

c) Further, the supporting schedules for the transfers to Government Units of Kshs.11,570,631,519 reflect balances that differ with the amounts reflected in the audited financial statements of five projects and an agency's as shown below:-

Name of Institution	Ministry's supporting Schedule Kshs.	Project/Agency financial Statements	Variance Kshs.
Kenya Cereal Enhancement Programme	70,000,000	35,000,000	35,000,000
Standards and Market Access Programme	46,705,105	26,516,409	20,188,696
Kenya Adaptation to Climate Change	76,433,663	162,015,854	(85,582,191)
East African Agricultural Productivity Project	111,482,360	162,079,228	(50,596,868)
Kenya Agricultural Productivity and	277,268,083	300,393,000	(23,124,917)

Sustainable Land				
Management Project				
Kenya Agricultural and	2,267,456,000	2,267,480,000	(24,000)	
Livestock Research				
Organization				
Total	**2,849,345,211**	**2,953,484,491**		**(104,139,280)**

Submission by Accounting Officer

The Accounting Officer stated that it was true that there were differences between the Ministry's supporting schedule and Project/agency Financial statement. The financial statements for the project/agency were revised and subsequently the financial statements for the department of agriculture resolving the variances.

Committee Observations and Findings

The Committee noted that financial statements for the project/agency have since been revised and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

d) In addition, the statement of receipts and payments reflects an expenditure of Kshs.1,886,142,573 under acquisition of assets, which includes, as shown under Note 18, an amount of Kshs.1,122,480,692 transferred to Strategic Grain Reserve Fund. However, the amount of Kshs.1,122,480,692 differs by Kshs.63,677,945 from the balance of Kshs.1,186,158,637 shown in the financial statements of Strategic Grain Reserve Fund as Government Grants. No reconciliation or explanation has been provided for the variance.

Submission by Accounting Officer

The Accounting Officer stated that it was true that there was a difference between the figure on acquisition of assets as reflected in the statement of receipts and payments as transfer to Strategic Grain reserve Fund and the figure reflected as government grants in the Strategic Grain Reserve Fund Financial statement. The financial statements for the period were revised resolving the variances.

Committee Observation and Finding

The statement of receipts and payments reflects an expenditure of Kshs.1,886,142,573.00 under acquisition of assets, which includes, as shown under Note 18, an amount of Kshs.1,122,480,692.00 transferred to Strategic Grain Reserve Fund. However, the amount of

Kshs.1,122,480,692.00 differs by Kshs.63,677,945.00 from the balance of Kshs.1,186,158,637.00 shown in the financial statements of Strategic Grain Reserve Fund as Government Grants

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

(iii) Unsupported Accounts Payables

The statement of assets reflects a balance of Kshs.450,644,248.00 under accounts payables (deposits and retentions) which has, however, not been supported with a schedule, analysis or any other documentation. Under the circumstances, the accuracy of the financial statements cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true the statement of assets reflects a balance of Kshs.450,644,248.00 under accounts payable (deposits and retentions) which has been fully supported.

Committee Observations and Findings

The Committee noted that financial statements for the project/agency have since been revised and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

(iv) Other Grants and Transfers

The statement of receipts and payments reflects an amount of Kshs.123,005,127.00 under other grants and transfers, which includes, as shown under Note 16 to the financial statements, an amount of Kshs.38,728,408 being disbursements to youth and women groups under Empowerment in Modern Agriculture Programme. However, no documentary evidence has been provided to support the amount.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the summary statements of provisionary reflect a balance of Kshs.8,519,245,613 used to the general accounts vote account and exchequer provisioning balance which has now been supported by the list of all exchequer issued to the ministry for the financial year 2015/2016.

Committee Observations and Findings

The Committee noted that documentary evidence has since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

(v) Summary Statement of Provisioning

The summary statement of provisioning reflects a balance of Kshs.8,519,249,613.00 under both General Account Vote (GAV) provisioning account and exchequer provisioning balance which has, however, not been supported with documentary evidence.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the summary statement of provisioning reflect a balance of Kshs.8,519,249,613.00 used both General Account Vote provisioning account and exchequer provisioning balance which has now been supported by the list of all exchequer issued to the Ministry of the financial year 2015/2016.

Committee Observations and Findings

The Committee noted that documentary evidence has since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

432. Financial Management and Budgetary Control

Section VII of the financial statements – summary statement of appropriation: recurrent and development combined indicates that in 2015/2016, the State Department had a final approved budget of Kshs.27,887,546,103.00, out of which, Kshs.19,798,153,526 (about 71%) was absorbed. No explanation has been provided for failure to absorb the remaining 29% of the approved budget, which occurred mainly under transfers to other government units (Kshs.7,421,399,732) acquisition of assets (Kshs.756,969,846) and use of goods and services (Kshs.534,604,822). Further, development projects and services that were earmarked to be implemented or provided to citizens appear not to have been implemented or provided as a result of failure to utilize 29% of the approved budget.

Submission by Accounting Officer

The Accounting Officer stated that it was true that out of the final approved budget of Ksh.27,887,546,103 about 71% was absorbed, this was due to delay in the receipt of exchequer which was occasioned by the transfer of allocation for irrigation directorate and the National Irrigation Board to a newly created State Department for Irrigation in Supplementary I budget for the FY 2015/16. The State Department for Agriculture had already disbursed exchequer in the first half to the National Irrigation Board and the directorate of irrigation thus could not receive exchequer as it had exceeded its budgetary allocation. The first half allocation exchequer disbursement to the State Department for Irrigation was reinstated in State Department for Agriculture budget in Supplementary II FY 2015/16 which was approved at the end of the year leaving no time for the state department to receive exchequer requested hence under absorption of 29% of the approved budget.

Committee Observations and Findings

The Committee noted that documentary evidence has since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

433. Pending Bills

Records maintained by the State Department indicate that the Department had pending bills totaling Kshs.489,237,516.00 as at 30th June 2016, which were carried forward to 2016/2017. Had the bills been paid and the expenditure charged to the accounts for 2015/2016, the statement of receipts and payments for the year ended 30th June 2016 would have reflected a higher deficit of Kshs.491,170,325.00 instead of the deficit of Kshs.1,932,809.00 now shown. Failure to settle bills during the year to which they relate distorts the financial statements for the year and adversely affects the budgetary provisions for the subsequent year to which they have to be charged.

Submission by Accounting Officer

The Accounting Officer stated that the State Department indicated pending bills totalling to Kshs.489,237,516. the bills were carried forward to 2016/2017 financial year.

I wish to State that the bills were not paid due to insufficient funds in relevant charge accounts and failure by IFMIS to generate purchase orders. The pending bills were however cleared in subsequent financial year.

Committee Observations and Findings

The State Department had pending bills of Kshs.489,237,516.00 which were carried forward to 2016/2017 financial year.

Committee Recommendation

(i) **The Accounting Officers should at all times avoid incurring pending bills in any financial year since any pending bill is treated as a first charge in the subsequent financial year's budget thereby impeding smooth implementation of the subsequent budget; and**

(ii) **The Cabinet Secretary for the National Treasury should put in place robust cash flow management systems in government that ensures there is adequate and timely financing of government programmes and projects to avoid incurring costly pending bills attributed to delays/inadequate exchequer releases.**

434. Avoidable Expenditure - Procurement of Subsidized Fertilizer

The statement of receipts and payments for the year ended 30th June 2016 reflects an expenditure of Kshs.5,692,471,230.00 under use of goods and services which, as shown under Note 13, includes expenditure of Kshs.5,383,258,816.00 relating to other operating expenses. The other operating expenses balances further includes payments totaling Kshs.4,189,820,270.00 made to National Cereals and Produce Board (NCPB) to meet expenses relating to procurement, handling, storage, transportation, commissions and other charges for subsidized fertilizer. However, included in the sum of Kshs.4,189,820,270.00 paid to National Produce and Cereals Board (NCPB) is an amount of Kshs.147,574,229.00 made on account of interest on Post Import Facility that arose from a 2013/2014 contractual obligation that the State Department of Agriculture failed to honour.

In 2013/2014, the State Department contracted a company to supply and deliver 102,550 metric tons of various types of fertilizer, at an equivalent cost of Kshs.3,782,845,939.00. The Department subsequently assigned the contract to National Cereals and Produce Board (NCPB), who in turn entered into a Letter of Credit (LC) arrangement with a commercial bank. Upon delivery of the fertilizer and subsequent expiry of the 180 days of the LC, NCPB failed to pay up and the bank converted the LC into a loan chargeable at 14.78% per annum. No explanation has been provided on why the Department paid interest on a loan arising from a contract that it had assigned fully to NCPB.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Ministry is paying interest on post import facility. I wish to state that in order to procure enough fertilizers for farmers under provided budget of 2013/14, the Ministry assigned the contract with M/S Holbud Limited to national Cereals and Produce Board (NCPB). Under this arrangement, NCPB was to approach Kenya Commercial bank to raise 180 days letters of Credit for the fertilizers, buy the fertilizers and sell to farmers at subsidized prices and the Ministry was to refund the difference between the buying price and subsidized price (subsidy) the following financial year to enable NCPB clear the letters of credit. The letters of credit were payable after six months. Due to delays in disbursement of funds from the National Treasury, the subsidy was not paid on time and thus the letters of credit were converted to commercial loans attracting interest.

Committee Observations and Findings

The State Department incurred an expenditure of Kshs.147,574,229.00made on account of interest on Post Import Facility that arose from a 2013/2014 contractual obligation that the State Department of Agriculture failed to honour;

Committee Recommendations

(i) Accounting Officers must, at all times, ensure that all requisite information is submitted to the Auditor-General for review in a timely manner.

(ii) The DCI and EACC should, within three (3) months of adoption of this report, investigate the payment ofKshs.147,574,229.00made on account of interest on Post Import Facility that arose from a 2013/2014 contractual obligation that the State Department of Agriculture failed to honour, to determine if, public money was utilized for the intended purpose and, the total money realized from the purported sale of subsidized fertilizer to farmers by the government and allow for prosecution, if evidence permits.

435. Unresolved Prior Year Matters

435.1 Procurement of Seed Potato

As reported in 2014/2015, the State Department paid an amount Kshs.25,000,000 to a firm to import seed potato from Netherlands. However, the supplier appears to have been single sourced as no evidence was provided to confirm that any competitive procurement procedure was followed as required under Section 29 of the Public Procurement and Disposal Act, 2005. Further, no invoice, delivery note or any other documentary evidence was provided to support the payment of Kshs.25,000,000 and to confirm that the seeds were indeed received. Review of the position during the audit of 2015/2016 revealed that the expenditure still remains unsupported.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the The Ministry was concerned with the low level of availability of certified potato seed and in a meeting convened for the major seed potato stakeholders in July 2014, it was noted that the bottlenecks are at the production and availability of basic seed potato from KALRO and certified seed potato from ADC who depend on KALRO to provide the basic seed which is multiplied to certified seed for sale to farmers. The Ministry hence resolved to support the two National Institutions to increase seed potato production to 10 % of the requirement in 3 years. Other Private and Development Partners were also to be roped in to have a further increase of certified seed potato availability to 30% in the same period (3 years). The government of Netherlands had already entered into an MOU with The Kenya Plant Health Inspectorate Service (KEPHIS) in 2012 to introduce new potato varieties in Kenya especially the processing type which were lacking in the country leading to potato processors importing potatoes from other countries like Egypt for crisps processing.

The Dutch government therefore brought in about 7 Dutch companies dealing with seed potatoes to introduce new varieties after undergoing the mandatory National Performance Trials (NPTs) by KEPHIS. By early 2015, about 21 new Dutch varieties had been released in Kenya with Agrico E. A. Seed Company being the main company releasing about half of the potato varieties (over 10). However, local farmers were not getting these varieties as no significant multiplication was taking place in Kenya.

The Ministry therefore intervened by asking ADC to import some of the Dutch varieties and multiply them locally to further increase the availability of certified seed potato to farmers with multiplication of more varieties. The Kenya-Netherlands Seed potato programme in conjunction with the Agricultural attaché at the Dutch Embassy was asked to consult the 7 Dutch Companies on the possible supply of 2000 MT of seed potato. However, most companies indicated that they had already sold their seed and some had very little remaining and only of one variety. The Company that was able to supply some reasonable amount of seed potato was Agrico E. A. Seed Company but also only 250 MT.

The Ministry had then to scale down its seed importation plan to the 250MT available. The single sourcing was undertaking as out of the seven firms that had been recommended by the Government of the Netherlands M/s Agrico was the only company with substantial amount of seed at that time and of different varieties. The award of a contract valued at Kshs. 25 million to M/s Agrico to import seed potato from Netherlands for potato multiplication bulking was part of the Ministry's effort to increase the availability of certified seed potato to farmers from the current low of less than 2% of the National requirement to about 30% in 3 years.

The accounting officer stated that they had attached the invoice, delivery note and Letters of Credit documents to support the payment of Kshs. 25,000,000.00 and to confirm that the seed potato were indeed received.

435.2 Procurement of Certified Seeds, Breeding Stock and Live Animals

It was also reported in 2014/2015 that the expenditure of Kshs.700,718,840 for purchase of certified seeds, breeding stock and live animals incurred during that year included an amount of Kshs.300,000,000 that was not supported with payment vouchers and related documents. Review of the position in 2015/2016 revealed that the expenditure has not been supported yet.

Submission by Accounting Officer

The Accounting Officer stated that it was true that in 2014-2015 we had a total expenditure of Kshs. 700,718,840.00 for purchase of certified seeds which included an amount of Kshs. 300,000,000.00 was a payment to Kenya Seeds Company which thegovernment had committed to the Company to sell seeds to farmers at subsidized price.

Committee Observations and Findings

(i) **The State Department of Agriculture spent a total of Ksh.700,718,840.00 on purchase of certified seeds, breeding stock and live animals in the FY 2014/2015;**

(ii) **The total payment of Ksh. 300 million to Kenya Seed Company Ltd which was not supported by payment vouchers and other relevant documents to confirm the adequacy of the procurement procedures in relation to these purchases and if the expenditure was a proper charge to public funds.**

Committee Recommendations

(i) **Accounting Officers must, at all times, ensure that all requisite information is submitted to the Auditor-General for review in a timely manner.**

(ii) **The EACC and DCI should, within three (3) months of adoption of this report, investigate the payment of Ksh. 300 million to Kenya Seed Company Ltd purportedly to subsidize sale of seeds by the company to farmers during the period.**

435.3 Purchase and Transportation of Subsidized Fertilizer

As was reported also in 2014/2015, the State Department disbursed an amount of Kshs.2,129,128,558 to National Cereals and Produce Board (NCPB), for purchase of subsidized fertilizer to be sold to farmers. However, apart from an invoice and a schedule raised by NCPB, no verifiable documents were produced for audit to confirm the actual quantity of fertilizer bought by NCPB, the quantity sold to the farmers and purchase and selling prices. Consequently, the propriety of the expenditure of Kshs.2,129,128,558 on subsidized fertilizer could not be ascertained. Review of the position during the 2015/2016 revealed that the expenditure still remains unsupported.

Submission by Accounting Officer

The Accounting Officer stated that it was true that in we had a total expenditure of Kshs 2,129,128,557.70 was paid to National Cereals and Produce Board. NCPB sells subsidized fertilizers to vetted and registered farmers. The farmers fill a special green form in order to access the fertilizers and this green forms are used to claim subsidy from the Ministry. These forms are bulk and are kept at the NCPB headquarters for inspection before subsidy is paid. These forms are available at NCPB offices for inspection and scrutiny.

Committee Observations and Findings

(i) **The State Department incurred an expenditure of Ksh.2,129,128,557.70 paid to National Cereals and Produce Board (NCPB) for subsidy for purchase of fertilizer which was to be sold to farmers;**

(ii) **The Accounting Officer did not at the time of audit provide to the Auditors, the relevant verifiable documentation to confirm the actual quantity of fertilizer bought and receipted by NCPB, the quantity of fertilizers sold to farmers and the amount realized from the sale of the fertilizers to farmers; and**

(iii) The reason given by the accounting officers that the farmers fill a special green form in order to access the fertilizer and that these forms were bulky and are kept at the NCPB headquarters for inspection before subsidy is paid was not convincing to the Committee. The Accounting Officer had the statutory responsibility to facilitate auditors to access the records at NCPB Headquarters.

Committee Recommendations

(i) Accounting Officers must, at all times, ensure that all requisite information is submitted to the Auditor-General for review in a timely manner.

(ii) The DCI and EACC should, within three (3) months of adoption of this report, investigate the payment of Ksh.2,129,128,557.70 to National Cereals and Produce Board (NCPB) to determine if public money was utilized for the intended purpose and the total money realized from the purported sale of subsidized fertilizer to farmers by the government and allow for prosecution, if evidence permits.

435.4 Bulking of Traditional High Value (Orphaned) Crops

In 2014/2015 it was reported also that the State Department entered into a Kshs.30,095,000 Memorandum of Understanding (MOU) with Kenya Agricultural and Livestock Research Organization (KALRO) in which KALRO was to undertake multiplication of various traditional high value (orphaned) crops including; cassava, sweet potatoes, cow peas, sorghum, finger millet and beans, with an objective of promoting their consumption and reducing over-reliance on maize. The crops were to be distributed for cultivation in Arid and Semi-Arid Lands (ASAL) of Baringo, Makueni, Machakos, Tharaka Nithi, Kirinyaga, Kisumu, Homa Bay, Busia, Kwale and Taita Taveta Counties. Although the amount of Kshs.30,095,000 was released to KALRO to undertake the project, no evidence was adduced to show that the project was carried out, completed and distribution done to the intended areas. Review of the matter in 2015/2016 revealed that the position still remains as reported.

Submission by Accounting Officer

The Acounting Officer stated that the overall objective of the Traditional High Value Crops Program (Orphan Crops) is to improve access to drought tolerant crop technologies for drought recovery, resilience, reduce gap between production and consumption as well as mitigate against climate change challenges facing the country in the Arid and Semi-Arid Lands.

The project specific objectives are;

1. To improve farmers access to seeds of traditional high value and drought tolerant crops especially in the arid and semi-arid areas.
2. To promote diversification to other food crops other than maize
3. To improve farmers household food security and nutrition sufficiency
4. To improve farmers' income through generation of surplus output for sale
5. To reduce the gap between domestic food production and consumption

Achievements of the project:

1. Improved availability of high quality drought tolerant seeds - 401.25MT of seed distributed
2. Increase in area and production of traditional crops – 68,795ha planted
3. Positive change in the attitude towards traditional crops
4. Improved availability and access to food in semi arid areas
5. Improved living standards where crops are grown
6. Improve farmers household food and nutrition security

The Counties covered by the project are;Baringo, Makueni, Machakos, Tharaka Nithi, Kirinyaga, Kisumu, Busia, Kwale, TaitaTaveta and Lamu. Counties benefiting in the long rains season are: Siaya, Pokot, Nakuru, Narok, Kajiado, ElgeyoMarakwet, Turkana, Samburu, Nyeri, Muranga, Nyandarua, Kiambu, Kitui, Isiolo, Isiolo, Marsabit, Embu, Kilifi, Kwale, Tana River.

Committee Observations and Findings

(i) The State Department incurred a total of Ksh. 30,095,000 as payment to Kenya Agricultural and Livestock Research Organization (KALRO) based on an MOU in which KALRO was to undertake a multiplication of various traditional high value (orphaned) crops including cassava, sweet potatoes, cowpeas, sorghum, finger millet and beans; and

(ii) The Accounting Officer did not at the time of audit provide to the Auditors, the relevant verifiable documentation to confirm that the project was carried out, completed and crops distributed in Arid and Semi-Arid Lands (ASAL) of Baringo, Makueni, Machakos, Tharaka Nithi, Kirinyaga, Kisumu, Homa Bay, Busia, Kwale and Taita Taveta Counties as per the MOU.

Committee Recommendation

Accounting Officers must, at all times, ensure that all requisite information is submitted to the Auditor-General for review in a timely manner.

435.5 Purchase of Tecno S9 Tablet Gadgets

It was reported also in 2014/2015 that the State Department incurred an expenditure of Kshs.5,584,025 on purchase of 413 tablets. However, no evidence was adduced to confirm that there was a requisition for the tablets and whether the gadgets were delivered, received, taken-on-charge in the stores and issued to specified officers. No evidence was provided in 2015/2016 on the matter.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Department purchased Tablet Gadgets from Safaricom and attached herewith please find all documents which were used to support the expenditure which includes the delivery note from safaricom, purchase order generated through the IFMIS System and the requisition from the department. Also included herewith are the issue vouchers, receipt voucher to show that the items were received and issued to the Department. It was true that the items were procured and specifications were done.

Committee Observations and Findings

(i) The State Department incurred an expenditure of Ksh. 5,584,025.00 for the purchase 413 Techno S9 Tablets from Safaricom Kenya Ltd during the financial year; and

(ii) The Accounting Officer did not at the time of audit provide to the Auditors, the relevant verifiable documentation to confirm that proper procurement procedures were followed in accordance with the procurement legislation and its regulations and how or to whom the tablets were distributed;

Committee Recommendation

Accounting Officers must, at all times, ensure that all requisite information is submitted to the Auditor-General for review in a timely manner.

435.6 Procurement of Fertilizer

(i) It was further reported in 2014/2015 that the State Department advertised Tender No.MOALF/SCMD/AGRIB/12/2014-2015, for supply and delivery of 54,950 metric tons of 8 lots - equivalent to 1,099,000 (50kg) bags of fertilizer. Out of the 21 firms that responded, seven (7) were found to be responsive and awarded contracts to supply the fertilizer at different prices per 50 Kg bag, depending on the region or point of delivery.

Lot 1 was won by bidder No.4 to supply at a price of Kshs.2,655 per 50Kg bag being the lowest evaluated bidder, at a total cost of Kshs.265,500,000. Lot 2 was also won by bidder No.4 at a price of Kshs.2,430 per 50Kg bag and a total cost of Kshs.364,500,000. Information available indicated that bidder No.4 declined to sign a contract agreement even after delivering the acceptance letter. The Ministerial Tender Committee then made a decision to disqualify the bidder and award the tender to the second lowest evaluated bidder, bidder No. 6 at a total cost of Kshs.320,000,000 and Kshs.436,850,000 for lots 1 and 2, respectively. Further, and despite request to the management to produce tender documents and correspondences relating to the disqualified bidder, no documents and records have been provided to date for audit verification.

(iii) In awarding the contract to the second lowest evaluated bidder without giving justifiable reasons why the lowest evaluated bidder declined to sign the contract, the Department lost an amount of Kshs.126,850,000, being the difference between the amount paid to the second lowest evaluated bidder and the amount that would have been paid to the lowest evaluated bidder, as shown below:

Lot No.	Bidder No. 4	Bidder No.6	Difference
	(Kshs)	(Kshs)	(Kshs)
1	265,500,000	320,000,000	54,500,000
2	364,500,000	436,850,000	72,350,000
	630,000,000	**756,850,000**	**126,850,000**

Submission by Accounting Officer

The Accounting Officer stated that the Ministry did not contravene procurement regulations by awarding the contract for supply and delivery of lot 1 and 2 to 2nd lowest evaluated bidder, M/S Performances Parts Ltd. According to the tender document issued to the bidders which also forms part of the contract it is clear on the time required for contract signature. The letter on notification of award (from 8.8) which is one of the forms comprising the tender document clearly outlined that contracts should be signed within thirty days but not earlier than fourteen days from the date of notification. Since the notification of award to M/S Global link Limited was on 22nd December, 2014, it is clear that the 30 days had elapsed and the firm had not shown any intention of signing the contract which prompted the Ministry to go to the second lowest evaluated bidder.

Committee Observations and Findings

(i) The Ministry advertised, under Tender No. MOALF/SCMD/AGRIB/12/2014-2015, for supply and delivery of 54,950 metric tons of 8 lots equivalent to 1,099,000 (50kg) bags of fertilizer;

(ii) Lot 1 was won by bidder No. 4 (M/s Global Link East Africa Ltd) to supply at a price of Ksh. 2,655.00 per 50 Kg being the lowest evaluated bidder at a total cost of Ksh. 265, 500,000. Lot 2 was also won by bidder No. 4 at a price of Ksh. 2,430.00 per 50 Kg bag with a total price of Ksh. 364,500,000.00 making the total contract sum of Ksh. 630,000,000;

(iii) M/s Global Link East Africa Ltd failed to sign contract agreement within the stipulated and the Ministry awarded the contract for supply and delivery of lot 1 and 2 to 2nd lowest evaluated bidder, M/S Performances Parts Ltd at a total contract sum of Ksh. 756,850,000.00.;

(iv) Apart from time lapse, there was no any other reason given by the Accounting Officer as to why M/s Global Link East Africa Ltd declined to sign a contract for a tender in which it had gladly participated in up to award stage; and

(v) The Ministry in awarding the contract to the second lowest evaluated bidder lost an amount of Ksh. 126,850,000.00, being the difference between the amount paid to the second lowest evaluated bidder and the amount that would have been paid to the lowest evaluated bidder. The award to the 2nd lowest bidder was informed by the provisions of Section 52 of the Public Procurement and Disposal Act 2005,

Committee Recommendations

The DCI and EACC should, within three months after adoption of this report, investigate the award of this contract to the second lowest evaluated bidder resulting into loss of Ksh. 126,850,000.00, being the difference between the amount paid to the second lowest evaluated bidder and the amount that would have been paid to the lowest evaluated bidder, and allow for prosecution, if evidence permits.

435.7 Funds Disbursed to Establish Revolving Funds

i. It was reported also in 2014/2015 that the State Department entered into two separate Memoranda of Understanding (MOUs) with Kenya Agricultural and Livestock Research Organization (KALRO) and Agricultural Development Corporation (ADC) under which the Department was to disburse Kshs.200,789,325.00 to the two organizations to carry out Potato Seed Multiplication (Bulking). ADC received Kshs.117,500,000.00 to produce 30,000 (50Kg) bags of basic seeds, 3,000,000 invitro plantlets and 3,000,000 potato mini-tubers while KALRO received Kshs.27,889,325.00 to produce 34,000 invitro plantlets, 472,220 mini tubers, 12,400 (50Kg) bags of basic seeds. The amounts were charged under the item of transfers to other Government Units. The Department also disbursed Kshs.50,400,000.00 to ADC and Kshs.5,000,000.00 to KALRO for the same purpose but charged the expenditure under the item of specialized materials and services.

ii. The MOUs provided that once the seed bulking was completed, the seeds would be sold to farmers and the proceeds be used to create two Revolving Funds to sustain continuous increase in production of basic seeds and certified seed potato. However, despite the Department having disbursed the total amount of Kshs.200,789,325.00 and the seed bulking project completed, the two Revolving Funds have not been established to date.

Submission by Accounting Officer

The Accounting Officer stated that KALRO Tigoni received funding from the Ministry as agreed in the MOU with slight delays due to the delayed release of funds from the exchequer. Kshs. 15 million were released in November, 2014 at the beginning of the short rains season 2014 as agreed. However, KALRO were only able to utilize less than half of the amount given (KShs.6.5 million) in the season hence did not achieve the target acreage promised to the Ministry in the MoU. They requested to be given one more season to achieve the target production claiming that though the Ministry released the funds to KALRO Headquarters on time, the same were not released to the implementing institution, KALRO Tigoni on time hence the delay in achieving the agreed targets. The balance of the funds not utilized in the short rains 2014 season (Kshs. 8.5 million) were then utilized in the long rains 2015 season from March, 2015.

The Ministry then released Ksh. 12.9 million in May 2015 being the balance of the funds agreed in the MoU (Kshs. 27.9 Million) for KALRO funding. This was to be utilized in the requested 3rd season to fully achieve the targeted production agreed in the MoU. However only about a third of these funds (KShs. 4.7 million) were utilized in the 3rd season from September, 2015 short rains as KALRO Tigoni claimed that KALRO Hqs did not release all the funds as disbursed by the Ministry. Hence, the problem of non-achievement of Targets is an internal problem at KALRO and not due to funds disbursement by the Ministry. The funds released by the Ministry are still not fully utilized by KALRO Tigoni who claim that the funds are not released by KALRO headquarters on time. KALRO Tigoni reports that they were yet to receive a total of Kshs. 8,189,325 from the Director General, KALRO Headquarter by December, 2015.

The Ministry has severally expressed its concern to KALRO on the non-achievement of targets on the agreed timelines and the PS has summoned the KALRO DG and his team from KALRO Tigoni to his office on 6th April, 2016 to explain on the non-achievement of the agreed deliverables despite the Ministry releasing all the funds agreed in the MoU.

The Ministry has since 2014 engaged the National Treasury in the setting up Fertilizer and Seed Subsidy Fund whose purpose is to ensure price stabilization of fertilizer and seed. The Draft Legal Notice setting up the Fund under the Public Finance Management Act, 2012, was first submitted to the National Treasury in 2014.

The MOU between the Ministry, KALRO and ADC was prepared on the basis that the Legal Notice will be operational so that the funds generated from the sale of the seeds to the farmers would be deposited in the Fund. However despite the legal notice not being ready, the two institutions have also had challenges in the bulking of the seed and have not realized any sales by the closure of the 2014/2015 financial year. The State Department has submitted the final draft of the Legal Notice that was prepared by an Inter- Agency Technical Committee to the National Treasury for concurrence and forwarding to the Attorney General for legal drafting.

Committee Observations and Findings

(i) The State Department disbursed the total amount of Ksh. 200,789,325.00 to KALRO and ADC based on an MoU which was signed between the Ministry and the two institutions with the objective of the two organizations for carrying out Potato Seed Multiplication (Bulking) and setting up a Seed Revolving Fund whose purpose is to ensure price stabilization seed;

(ii) The two revolving funds which were to be established by KALRO and ADC have not been commissioned or established, as a result of which, proceeds from sale of the produced seeds have not been accounted for; and

(iii) The Accounting Officer in his submission did not provide an explanation for the delay by ADC in establishing its revolving Fund as per the MoU despite having been paid a total of Ksh. 117,500,000.00 to produce 30,000 (50 Kg) bags of basic seeds, 3,000,000 in vitro plantlets and 3,000,000 potato mini-tubers.

Committee Recommendations

The EACC should within three (3) months of adoption ofthis report investigate Dr. Eliud K. Kireger, the Director-General, KALRO for failure to manage public funds in a prudent and responsible manner pursuant to Article 201(d) of the Constitution of Kenya, 2010 and particularly for non-achievement of targets and timelines despite KALRO having received a total Ksh. 27,889,325.00 for 34,000 in vitro plantlets, 472,220 mini tubers, 12,400 (50 Kg) bags of basic seeds which were never realized and no Revolving Fund established in line with the MoU.

436. Non-Submission of Financial Statements and Failure to Account for Funds by Agricultural Sector Coordination Unit (ASCU)

Agricultural Sector Coordination Unit (ASCU) is an Inter-Ministerial Secretariat established in 2005, under the Ministry of Agriculture, Livestock and Fisheries, to facilitate implementation and coordination of agricultural sector strategies in line with Vision 2030. The Unit receives funding from the Government and other development partners and it's activities traverse several Ministries. However, the following unsatisfactory matters, like in previous years, have not been resolved:

i. Since inception in 2005, the Unit, through the parent Ministry, has not submitted its records, documents, books of account and financial statements to the AuditorGeneral for audit as required by Section 47 of the Public Audit Act, 2015. Although the Ministry had indicated previously that financial statements were prepared for the year ended 30 June 2013, the statements were not submitted to the Auditor General for audit.
ii. As reported in 2014/2015, the Unit appointed M/s Deloitte & Touche as its auditors in the previous years. However, no explanation has been provided for the appointment of the private auditors without the knowledge, consent and approval of the Auditor-General as required under Section 23 of the Public Audit Act, 2015. The audit fee of Kshs.3,131,420 (Kshs.1,610,892 for 2012/2013 and Kshs.1,520,528 for 2011/2012) paid to the auditors was therefore an irregular charge on public funds.
iii. The management of the Secretariat has already been summoned and appeared before the Public Accounts Committee of the National Assembly over this matter. The Committee in consequence directed the management to comply with the law and submit to the Auditor-General all records, documents and information together with financial statements for all the years since inception. The management has, however, not heeded the directive, and therefore the matter remains unresolved.

Submission by Accounting Officer

The Accounting Officer stated that Agricultural Sector Coordination Unit(ASCU) was an inter-ministerial coordination secretariat that facilitated the implementation of the agricultural sector strategies in Kenya. ASCU was established in 2005 in order to address the fragmentation of responsibilities between the several agriculture and rural developments-related ministries, development partners and non-state actors that were tasked with implementing the sector strategy. Additionaly, it acted as a think tank in the paradigm shift towards an innovative, commercially-orientd and modern agricultural sector.

ASCU's mandate was to facilitate and add value to the reform process and oordinate the sector ministries' and othe stakeholdrs' efforts towards the implementation of the sector's vision. ASCU did not therefore implement activities on behalf of the sector ministries. At the time ASCU was established, only a few sector ministries were on board. These included, the then Minstry of Agriculture, the then Ministry Cooperative Development and Marketing and the then Ministry of livestock Development and Fisheries. Later on, in 2008 after the launch of vision 2030 the sector came up with the Agricultural Sector Development Strategy (ASDS 2010-20) was signed by ten sector ministers.

The then ten ministries who were signatories of the ASDS included; Ministry of Agriculture, Ministry of Livestock Development, Ministry of Fisheries Development, Ministry of Cooperative Development and Marketing, Ministry of Water and Irrigation, Ministry of Lands, Ministry of Regional Development Authorities, Ministry of Environment and Mineral Resources, Ministry of forestry and Wildlife, and the Ministry of State for Development of Northern Kenya and other Arid Lads. ASCUs mandate was therefore expanded to include facilitation of coordination fo the acitivities of the 10 sector ministries, development partners, private sector and key stakeholdres, to achiev the vision of the agricultural sector.

Key Notes/Responses

1. Agricultural Sector Coordination Unit (ASCU) was not a unit in the ministry of Agriculture, Livestock and Fisheries. It was an inter ministerial secretariat as depicted in the attaced Mou and Agricultural Sector Development Strategy (see pages ix, x,xi,84 and 85). In the year 2013 ASCU was given mandate under the AFFA Act No. 13 of 2013 as per first para 9 which did not materialized and ASCU was disbanded and removed from the ACT as per the statute law (Miscellaneous Amendments) Act No.7 of 2016. Hence, Unit ceased to exist.

2. ASCU was audited by external auditors as per MOU, finance Agreements and Programme documents between Government and Development partners.

3. ASCU has never received voted funds directly or any other from the National Treasury. Sector ministries and other stakeholders contributed funding to Basket fund in line with the attached MoU and for specific activities, which were accounted for. The funds from ministries were for specific activities and the same was accoutned and audited throught respective ministries.

4. Appointment of Independent Auditor

As per MoU between Governments of Denmark, Sweden, German Technical cooperation and the Government of Kenya on support to ASCU.

Article 8.3 states" The development partners reserve the right to appoint an independent external auditor to undertaken a rolling audit and audit the final accoutns"

5. NB: ASCU has been audited since inception by international audit firms namely; Delloite and Touche, KPMG, Pricewaterhouse coopers and Ernest and Yound as per the MoU and all stakeholders have never raised any issues with the audited reports. The same reports are hereby attached.

6. ASCU offices were closed down in 2014 and the unit disbanded in line with statute law (Miscellaneous amendments) act No.7 of 2016.

In conclusion, the accounting officer stated that theAuditor General Should remove ASCU queries from the Ministry of Agriculture books of accounts since the ASCU funds were from various sector ministries and were accounted for within the respective ministries and no issues were raised from their end. ASCU was closed and disvandedherence it does not exist.

Committee Observations and Findings

(i) The Accounting Officers of the State Departments constituting the Inter-Ministerial Committee that is providing oversight for ASCU have failed to submit audited accounts and financial statement to the Auditor-General in contravention of the provisions of Article 229 of the Constitution of Kenya, 2010;

(ii) The Accounting Officers of the State Departments constituting the Inter-Ministerial Committee for ASCU failed to heed previous directive of the PAC to ensure that ASCU books and financial statements are submitted to the Auditor-General; and

(iii)The ASCU project coordinator has to date not availed the financial statements for audit as previously instructed by the Public Accounts Committee. Further, the ASCU has gone ahead and appointed M/s Deloitte & Touché (a private auditor) to audit the project without approval of the Auditor-General as provided for in Section 23 of the Public Audit Act No, 34 of 2015.

Committee Recommendation

Accounting Officers must at all times ensure that all donor funds are accounted and reported in accordance with the guidelines set out in the PFM Act, 2012.

STRATEGIC GRAIN RESERVE TRUST FUND

Basis for Adverse Opinion

437. Financial Performance

As previously reported, the Fund recorded a deficit of Kshs.4,809,971,427.00 (2014/2015 – Kshs.1,195,159,835.00) in 2015/2016. However, the comparative figure of Kshs.1,195,159,835.00 (2014/2015) reflected in the statement of financial performance differs with the amount of Kshs.1,284,297,766.00 reflected in the audited financial statements for 2014/2015. No explanation has been given for the variance. The continued loss-making trend has been attributed to the multiplicity of expenses including; costs of acquisition of maize, gunny bags, storage, fumigation, handling costs, transport costs, agency fees and commissions charged by National Cereals and Produce Board (NCPB) as management fees on behalf of the Ministry over the years. This is an indication of existence of a material uncertainty that casts significant doubts about the ability of the Fund to continue as a going concern.

In addition, the accumulated deficit of Kshs.17,674,645,979.00 as at 30th June 2016 reflected in the statement of financial position includes accumulated deficit brought forward from 2014/2015 of Kshs.12,864,674,552.00 which differs with the amount of Kshs.12,953,812,480.00 reflected in the audited financial statements for the year ended 30th June 2015. The resultant difference of Kshs.89,137,928.00 between the two sets of records has not been reconciled. Consequently, the sustainability of the Fund is dependent on the continued disbursement of grants by the government.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the comparative figure of Kshs. 1,195,159,835.00 (2014/2015) reflected in the financial performance differs with the amount of Kshs. 1,284,297,766.00 reflected in the audited financial statements for 2014/2015 and that the accumulated deficit brought forward from 2014/2015 of Kshs. 12,864,674,552.00 differs with the amount of Kshs. 12,953,812,480.00 reflected in the audited financial statements for 2014/2015 both with a resultant difference of Kshs. 89,137,928.00. This was occasioned by the unbalanced statement of financial position for the year 2014/2015 which reflected net assets of Khs. 18,025,598,611.00 and differing net reserves of Kshs. 17,936,460,683.00 with a resultant difference of Kshs. 89,137,928.00. This error was corrected in the 2015/2016 financial statements.

It was also true that the Fund shows an accumulated deficit of Kshs.17,674,645,979.00 due which is attributed to the multiplicity of expenses including cost of acquisition of maize and gunny bags, storage and fumigation, agency fees and commission charged by National Cereals and Produce Board (NCPB).

The deficit is as a result of buying the maize at higher costs and selling at subsidized prices during the period of short supply of maize in the country. The government reviewed the Agency Agreement with National Cereals and Produce Board (NCPB) in order to reduce the multiplicity of the expenses charged by the NCPB.

To further streamline the management of the Fund, the Government established the Strategic Food Reserve Fund Oversight Board through Legal Notice No. 15 of 2015 to oversee the Strategic Food Reserve Fund.

Committee Observations and Findings

(i) **The Strategic Grain Reserve Fund incurred a net deficit of Ksh.1,284,297,766.00 bringing the accumulated deficit to Ksh.12,953,812,480.00 as at 30th June 2015which was attributed to the multiplicity of expenses including cost of acquisition of maize and gunny bags, storage and fumigation, agency fees and commission charged by National Cereals and Produce Board (NCPB).**

(ii) **The Government has reviewed the Agency Agreement with the NCPB in order to reduce the multiplicity of expenses charged by the NCP. Further, through the PFM (Strategic Food Reserve Trust Fund) Regulations 2015 under Legal Notice No. 15 of 2015, the Government has transformed the Strategic Grain Reserve Fund to Strategic Food Reserve Fund which is now overseen by an oversight Board.**

(iii) **The general object and purpose for which the Fund is established is to provide Strategic Food Reserve in physical stock and cash equivalent and specifically to among other, stabilize the food supply and prices in the country. Sustainablity of the Fund is entirely dependent on the continued disbursement of grants by the Government through annual appropriation by Parliament as provided for in Regulation 6 of the the PFM (Strategic Food Reserve Trust Fund) Regulations 2015.**

Committee Recommendation

The Accounting Officer and the Oversight Board of the Fund should ensure that the Fund achieves its strategic objectives particularly stabilization of the food supply and prices in the country and maintaining adequate strategic food reserves in physical stock to ensure value for annual money appropriated by Parliament.

438. Cash and Cash Equivalents

The statement of financial position reflects a cash and cash equivalents balance of Kshs.2,588,782,991 as at 30 June 2016, which differs with the cashbook balance of Kshs.2,492,901,822 by Kshs.95,881,169. No reconciliation has been provided for the difference.

In addition, a board of survey report has not been provided to support the cash and cash equivalents as at 30 June 2016. Consequently, the completeness and accuracy of the cash and cash equivalents' balance of Kshs.2,588,782,991 reflected in the financial statements cannot be confirmed.

Further, a review of the cash book revealed a payment of Kshs.6,000,000 made to a local freight firm vide payment voucher number 001471 dated 22.01.2016, which was not supported with documentary evidence. No details have been provided to explain the nature and purpose of the payment. Consequently, the propriety and authenticity of the payment cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of financial position reflects a cash and cash equivalents balance of Kshs. 2,588,782,991 as at 30 June 2016, which differs with the cash book balance of Kshs. 2,492,901,822 by Kshs. 95,881,169. The resultant difference is due to payments that had not been paid in the bank by close of business on 30th June 2016 as analysed below:

	Payee	Amount
1	National Cereals and Produce Board	1,112,460.20
2	National Cereals and Produce Board	3,333,159.15
3	National Cereals and Produce Board	4,749,577.10
4	National Cereals and Produce Board	5,275,854.00
5	National Cereals and Produce Board	6,062,038.80
6	National Cereals and Produce Board	9,228,298.80
7	National Cereals and Produce Board	10,494,601.20
8	National Cereals and Produce Board	12,461,392.80
9	National Cereals and Produce Board	13,385,137.90
10	National Cereals and Produce Board	13,394,500.00
11	National Cereals and Produce Board	15,901,749.25
12	SFR Board Facilitation	282,400.00
	Total	**95,881,169.20**

A board of survey report has been provided for audit review.

Payment of Kshs. 6,000,000 made to a local freight firm was made at National Cereals and Produce Board and does not appear in the Strategic Food Reserve Cash Book. We however note that payment voucher number 54A4072314 through cheque number 001471 was paid to M/S Mitchel Cotts Freight Kenya Limited on 21st January 2016 for gunny bags supplied as per the NCPB Credit Purchase Advice No. 14A4023820 and 14A4024119 of 36,300 pieces. The supplier M/S Blue Horizon Properties Limited did a request for partial payment of Kshs. 6,000,000.00 (Six Million) and the balance to be paid to their bank account through their letter dated 14th December 2015.

Committee Observations and Findings

The statement of financial position reflects a cash and cash equivalents balance of Kshs. 2,588,782,991.00 as at 30th June 2016, which differs with the cash book balance of Kshs. 2,492,901,822.00 by Kshs.95,881,169.00. The resultant difference was due to payments that had not been paid in the bank by close of business on 30thJune 2016

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2.

439. Inventories

(i) Obsolete and Unfit Stock of Maize

Review of quality assurance reports for 2015/2016 maintained by National Cereals and Produce Board, the custodian of the Strategic Grain Reserve on behalf of the Ministry, indicates that Celphos, the Board's preferred fumigation chemical has failed to kill weevils. Information available further indicates that although most stations (depots) had requested for a change of the chemical, the Board has not come up with an alternative. Consequently, 754,015 bags of maize valued at Kshs.1,772,055,670 were found to have been damaged beyond the 2.5% acceptable limit and were not fit for human consumption. No efforts appear to have been made to improve the grain storage. Furthermore, no adjustments have been made in these financial statements to account for the obsolete stock.

Submission by Accounting Officer

The Accounting Officer stated that most of the maize affected with high insect damage are in Lake/Western Region and were purchased during 2007/2008 season and transferred to the affected depots during the 2008/2009 season, hence have been held in our stores for a period of over 7 years.

During the long storage period, the stocks have been continuously exposed to repeated infestation. The problem of pest infestation was aggravated by the Erad court case where all the Board vehicles were being targeted by auctioneers and no fumigation was carried for the period the orders to auction Boards assets were active in 2013.

When the issue of high pest infestation was raised, management carried out quality inspections in the affected region in February 2011. The findings were as follows.

- The extent of insect damage was mostly below 10% and was concentrated on the bags at the periphery of the stacks.
- The high insect damaged was caused by:

i) Prolonged storage of maize dating to 2008/2009 leading to weakening of peripheral bags.

ii) The use of insufficient as well as old fumigation sheets.

iii) The use of Celphos fumigant which was not very effective.

Action Taken by Management

The problem of fumigation sheets was addressed in 2011 by procurement of 140 pieces of fumigation sheets. The issue of Celphos fumigant was addressed by Management as follows:-

i) The field pest control officers were asked to give their own assessment on the performance of Celphos brand in comparison with other similar brands they have used before.

ii) The pest control officers indicated that Gastoxin and Detia brands were better than celphos brand because re-infestation occur after an average 2 months instead of 3 months in other brands.

iii) The poor performance of the product was communicated to Pest Control Products Board (PCPB) on 21st February 2011 of which they responded vide their letter ref: PCPB/111/REG/Vol. 1/11/62 dated 1st March 2011.

iv) Twiga Chemical Industries Ltd the supplier of Celphos brand wrote a letter to Management refuting the poor performance of their products.

v) Given that the product has been registered by PCPB in Kenya with similar technical specification as having 57% active ingredient and offered at very competitive price, a meeting was convened to discuss poor performance of celphos brand and chart the way forwards 2nd June 2011.

vi) Meanwhile the pest control officers were guided to increase the dosage from 3 tablets per ton to 4 tablets as a remedial measure and also assess the performance.

vii) It was recommended in the meeting that an independent analysis be undertaken. The University of Nairobi's Chemical and Industrial Consultancy Unit was contracted to carry out the independent efficacy tests on celphos, gastoxin and detia for comparison.

viii) The results from the chemical test by University of Nairobi indicated that Gastoxin was better fumigant than celphos and detia.(Report dated 22nd May 2013)

ix) A meeting was arranged and held on 18th June 2014 between NCPB and the manufacturer of Celphos fumigant, M/S Excel Crop Care ltd, to discuss the poor performance of their product.

x) Following the discussion management made a decision to discontinue the procurement and use of celphos fumigant and pursued other brands like gastoxin in July 2014.

Management recommended to the SGR Trustees the sale of the old maize. The Trustees were slow in granting the authority and the quantities authorized were always below the quantity requested. The approval for disposal/sale was granted as follows;

i) In 2012 , 300,000 bags.

ii) In 2013, 451,102 bags

iii) Approval for 867,988 bags was sought but delayed but finally 500,000 bags was approved in June 2014 but were processed through open tender which delayed it further. However the approval was finally granted in July 2014 when the market was already saturated with a lot of maize from the neighbouring countries.

iv) Authority of another lot of 2,404,923 bags x 90 Kgs comprising maize older than 2 years was granted by SFR Oversight Board in September 2015. Sale is ongoing and is nearing completion.

It was clear that while procurement of effective chemicals in a timely manner is a factor that has immense effect on the maintenance of grain quality, the other areas that have received attention so as to reduce losses are;

i) Grain in conventional stores should be refreshed through sale at least within twenty four (24) months.

ii) Grain stored in the silos should be moved out within six (6) months

iii) Procurement of effective brands of fumigants has been initiated and now being adhered to and all stock are being fumigated as scheduled or when due.

Committee Observations and Findings

(i) The 754,015 bags of maize, valued at Ksh. 1,772,055,670 that were found to have been damaged beyond the 2.5percent acceptable limit, are not fit for human consumption;

(ii) The Accounting Officer and the management of the NCPB took some action to remedy the situation. However, this was too little too late as the public had already lost approximately Ksh. 1.77 billion; and

(iii)The Management recommended to the SGR Trustees the sale of the old maize. However, the Trustees were slow in granting the authority and the quantities authorized were always below the quantity requested

Committee Recommendation

The SGR/SFR Trustees who served during the period should be held jointly liable for their failure/slow action to grant authority to the management to sale off the maize which were in stores in time leading to loss of public funds to the tune of approximately Ksh. 1.77 billion.

(ii) Unsupported Balance

The statement of financial position reflects inventories' balance of Kshs.6,589,706,239, which according to note 7, comprises of stocks of maize valued at Kshs.6,226,921,120, gunny bags valued at Kshs.162,785,119 and powdered milk – KCC, valued at Kshs.200,000,000. However, no records and documents including annual stock-take sheets were availed to support this balance. Consequently, it is not possible to confirm that the balance of Kshs.6,589,706,239 as stated in the financial statements reflects the fair values of the inventories as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the inventory balance of Kshs. 6,589,706,239 includes powdered milk – KCC valued at Kshs. 200,000,000.

Committee Observations and Findings

(i) The statement of financial position reflects an inventory of Ksh. 12,564,726,688 comprising of stocks of maize valued at Ksh. 12,561,675,316 and gunny bags valued at Ksh. 3,051,372 respectively; and

(ii) The stock ledgers for SFR stocks provided by the Accounting Officer was not availed to the auditors at the time of audit. Further, the submission by the Accounting Officer that the annual stock taking sheets are very bulky but are available at NCPB for verification was not convincing to the Committee since he failed to facilitate the auditors to access them at the time of audit.

Committee Recommendation

(i) **The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012; and**

(ii) **The Accounting Officer should at all times in line with Section 9 of the Public Audit Act 2015 provide unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities and any property or premises used or held by State Organs or public entities covered by Article 229 (4) of the Constitution of Kenya 2010**

440. Receivables

The receivables' balance of Kshs.7,030,977,248 reflected in the statement of financial position has not been supported with details and breakdown of individual debts and services rendered or any documentary evidence. As a result, the completeness, accuracy and recoverability of the receivables' balance of Kshs.7,030,977,248 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of financial position reflects balance of Kshs.7,030,977,248.00 under receivables. The balances comprise debtors equivalent Kshs.6,865,220,613.00 brought forward from the financial year 2012/2013 from State for Special Programmes.

Committee Observations and Findings

The receivables balance of Ksh. 7,258,988,608.00 reflected in the statement of financial position as at 30th June 2015 was not supported with details and breakdown of individual debts and services rendered or any documentary evidence to support the balance.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68 (2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

441. Trade and Other Payables

The statement of financial position reflects a trade and other payables balance of Kshs.1,807,680,657.00 which as disclosed under note 9 to the financial statements is net of

Kshs.1,330,352,499.00 indicated as payments during the year. However, no documentary evidence has been provided to confirm the payments during the year. Under the circumstances, the completeness and accuracy of the trade and other payables balance of Kshs.1,807,680,657.00 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of financial position reflects trade and other payables balance of Kshs.1,807,680,657.00. This represents the amount owed by the Strategic Food Reserve Fund to NCPB. A schedule of the amounts owed has been provided for audit review.

Committee Observations and Findings

The statement of financial position reflects a trade and other payables balance of Kshs.1,807,680,657.00 which as disclosed under note 9 to the financial statements is net of Kshs.1,330,352,499.00 indicated as payments during the year.

Committee Recommendation

The Accounting Officer and the Management of the NCPB should reconcile their books and ascertain the completeness and accuracy of the trade and other payables balance of Kshs.1,807,680,657.00.

442. Agency Agreement

As reported previously, the latest 6th Agency Agreement between the Ministry and National Cereals and Produce Board, which outlines the terms of engagement between the two parties, and which runs from 1st July 2013 to 30th June 2016, has still not been signed by the two parties to date. Consequently, any contracts entered into and transactions carried out between the two parties may not be enforceable in law.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Agency Agreement between the Trustees of the Fund and National Cereals and Produce Board for the period including 2015/2016 financial year had not been signed. During the period the Trustees were still negotiating with NCPB on lowering the Agency Commission rates. However, the agreement was that the previous signed Agency Agreement be in force until they had settled on agreeable commissions.

Committee Observations and Findings

(i) There was delays in signing the agency agreement between the Trustees of the Fund and National Cereals and Produce Board for the period the FY 2014/2015 which was occasioned by negotiating with NCPB on lowering the Agency Commission rates; and

(ii) The agency agreement was subsequently signed during the FY 2015/2016.

Committee Recommendation

The Accounting Officers should ensure that agency agreements are signed in time and that the existing agreements provides for a transition clause to protect contractual agreements entered into during new agency agreement negotiations.

AGRICULTURAL INFORMATION RESOURCE CENTRE REVOLVING FUND

Basis for Disclaimer of Opinion

443. Receivables

The statement of financial position reflects a balance of Kshs.14,623,050 for receivables from non-exchange transactions as at 30 June 2016 (2015 – Kshs.21,172,802), which includes an amount of Kshs.6,521,380 relating to the period between November 1993 and June 2015. A review of the position as at 30 September 2016 indicates that out of the long outstanding balance of Kshs.6,521,380, an amount of Kshs.4,823,741 had been recovered leaving a balance of Kshs.1,697,639. No explanation has been provided for failure to recover the remaining amount.

Submission by Accounting Officer

The Accounting Officer stated that it was true the financial position reflects a balance of Kshs.14, 623,050 for receivables from non –exchange transactions as at June 2016 (2015-kshs21, 172,802) which includes an amount of Kshs. 6,521,380 relating to the period between November1993 and June 2015. A review of the position as at 30th September 2016 indicates that out of the long outstanding balance of kshs.6, 521,380, an amount of kshs. 4, 823,741 had been recovered leaving a balance of kshs.1, 697,639.

The Accounting Officer further stated that we have embarked on debt collection exercise from the government agencies by writing of demand notice. This can be demonstrated by the amount of debtors outstanding by the year ending June 2016.

Committee Observations and Findings

(i) **The statement of financial position reflects a balance of Kshs.14,623,050 for receivables from non-exchange transactions as at 30 June 2016 (2015 – Kshs.21,172,802), which includes an amount of Kshs.6,521,380 relating to the period between November 1993 and June 2015; and**

(ii) **That an amount of Kshs. 4, 823,741 had been recovered leaving a balance of Kshs.1, 697,639**.

Committee Recommendation

The Accounting should ensure that all debts owed to Agricultural Resource Information Centre are fully recovered in line with Regulation 83(2g) of the PFM (National Government) Regulations 2015 that requires accounting to pursue debtors with appropriate sensitivity and rigor to ensure that amounts receivable by the government are collected and banked promptly.

444. Inventories

The statement of financial position also reflects a balance of Kshs.10,334,856.00 for inventories. The balance has not been supported with stock-take sheets, schedules, analysis or any other documentary evidence. Consequently, the existence and value of the inventories as well as accuracy and completeness of the balance as at 30thJune 2016 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true the financial position reflects a balance of Kshs.10, 334,856.00 for inventories. The balance has not been supported with stock-take sheets, schedules analysis or any documentary evidence and the stock sheet has been provided to support the figure in the Financial statement.

Committee Observations and Findings

The statement of financial position also reflects a balance of Kshs.10,334,856.00 for inventories which has not been supported with stock-take sheets, schedules, analysis or any other documentary evidence.

Committee Recommendation

(i) The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012; and

(ii) The Accounting Officer should at all times in line with Section 9 of the Public Audit Act 2015 provide unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities and any property or premises used or held by State Organs or public entities covered by Article 229 (4) of the Constitution of Kenya 2010

445. Reserves

The statement of financial position reflects a balance of Kshs.10,094,144.00 in respect of reserves as at 30thJune 2016 (2015 – Kshs.25,214,752.00). The significant decrease in reserves by Kshs.15,120,608.00 during the year under review has not been supported with any records, movement schedule or documentary evidence. In addition, the balance of Kshs.10,094,144.00 for reserves has not been supported with either an explanatory note or analysis. The validity and accuracy of the reserves balance of Kshs.10,094,144.00 therefore, cannot be confirmed.

Submission by Accounting Officer

The Accounting Officerstate that it was true that the statement of financial position reflects a balance of Kshs.10, 094,144.00 in respect reserves as at 30 June 2016(2015-Kshs25, 214,752.00). The significant decrease in reserves by Kshs.15,120,608.00 during the year under review has not been supported with any records , movement schedule or documentary evidence. The acccounting officer further stated that they were doing reconciliation in reference to capital reserves and replacement l of prior years' and make necessary adjustment in our financial statement.

Committee Observations and Findings

The statement of financial position reflects a balance of Kshs.10,094,144.00 in respect of reserves as at 30th June 2016 (2015 – Kshs.25,214,752.00). The significant decrease in reserves by Kshs.15,120,608.00 during the year under review has not been supported with any records, movement schedule, explanatory note, analysis or documentary evidence.

Committee Recommendation

(i) The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012; and

(ii) The Accounting Officer should at all times in line with Section 9 of the Public Audit Act 2015 provide unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities and any property or premises used or held by State Organs or public entities covered by Article 229 (4) of the Constitution of Kenya 2010

446. Statement of Changes in Net Assets

The statement of changes in net assets reflects total net assets' balance of Kshs.50,843,949.00 as at 30 June 2016 which, however, differs with the balance of Kshs.41,479,732.00 shown in the statement of financial position. In addition, the statement of changes in net assets reflects under capital replacement development reserve balances of Kshs.6,404,457, Kshs.3,053,905.00 and Kshs.(15,214,752.00) relating to depreciation reserve, "surplus/deficit for the period" and transfers to/from accumulated surplus respectively which have not been supported with any documentation or analysis. It has not been possible in the circumstances to confirm the validity, completeness and accuracy of the total net assets balance of Kshs.50,843,949.00.

Submission by Accounting Officer

The Accounting Officer stated that it was true the statement of changes in net asset reflects total net asset a balance of Kshs. 50,843,949.00 as at 30thJune 2016 which differs with balance of Kshs.41, 479,732.00 shown in the statement of financial position.

The Accounting Officer further stated that they were doing reconciliation in reference to capital reserves and replacement l of prior years' and make necessary adjustment in our financial statement.

Committee Observations and Findings

The Committee noted that records, movement schedule, explanatory note, analysis and documentary evidence have since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

(i) The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012; and

(ii) The Accounting Officer should at all times in line with Section 9 of the Public Audit Act 2015 provide unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities and any property or premises used or held by State Organs or public entities covered by Article 229 (4) of the Constitution of Kenya 2010

DONOR FUNDED PROJECTS

KENYA CEREAL ENHANCEMENT PROGRAMME: GRANT NUMBER 2000000623

Basis for Disclaimer of Opinion

447. Accuracy and Presentation of Financial Statements

The statement of receipts and payments reflects an amount of Kshs.125,648,925 under miscellaneous receipts which as disclosed under note 8.4 to the financial statements includes Kshs.10,000 for sale of tender documents and Contributions in kind from Equity Bank Limited (EBL) and beneficiaries/farmers of Kshs.125,638,925. The amount of Kshs.125,638,925 is made up of Kshs.115,861,126.79 described as Equity Bank Limited Contribution and Kshs.9,777,798 described as "Beneficiary Contribution for evoucher Inputs'. These amounts are however not supported with receipts, bank remittances, cash books or any other documentary evidence.

Further, the statement of receipts and payments reflects a nil balance under proceeds from domestic and foreign grants. However, the special account statement held at the National Treasury reflects an amount of EURO 1,043,300 (Kshs.119,718,466) as withdrawn on 12 May 2016 from the Special Account and transferred to the Project's bank account. No documentary evidence was availed to confirm that Kshs.115,861,127 was indeed received by the Equity Bank Limited or the Foundation associated with the Bank.

In addition, the statement of receipts and payments for the year ended 30 June 2016 and the statement of financial assets as at 30 June 2016 do not include a column for the cumulative figures as per the requirements of the financial statements presentation template provided by the National

Treasury. Under the circumstance, the completeness, accuracy, and validity of the financial statements could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Statement of Receipt and Payment reflected an amount of Kshs. 125,648,925 under miscellaneous receipts. This includes Kshs. 10,000 for sale of tender documents, Kshs. 115,861,127 being contributions in kind from Equity Bank limited and Kshs. 9,777,798 being beneficiary contribution for e-voucher inputs.

As shown in the background information; Funding Summary paragraph 1.7, Equity bank Ltd is expected to contribute to the Programme an approximate amount of Kshs. 287,700,000 while the beneficiaries/farmers are expected to contribute to the Programme an approximate amount of Kshs. 356,340,000 during the Programme implementation period. These are contributions in kind by the bank and beneficiary farmers to the Programme as no cash funds are given to the programme but the value of the contributions are captured by the bank and reported to the Programme.

Contribution by Equity Bank ltd (Kshs. 115,861,126.79) refers to the cost incurred by the bank in setting up the e-voucher platform to enable the farmer's access the farm inputs via a debit card. With regard to beneficiary contributions, the Programme finances a percentage of the farm inputs cost (90% and 60% in year 1 and 2 respectively in Western region) and the beneficiaries contribute the remaining percent of the cost. This is deposited by the farmers directly to their bank accounts in the bank to enable them access the inputs. The figure for beneficiary contribution to the Programme (Kshs. 9,777,798) therefore refers to the amounts as reported by the bank to the Programme as having been contributed by the beneficiary farmers in Western region during the Period.

In line with Note 8.1 (ii) of the Financial Statements, the figures for the contributions in kind are therefore captured in the statement of receipt and payment both as receipt and payment in equal terms. Attached please find the letter from the bank confirming the contributions by the bank and the beneficiaries.

The miscellaneous receipt of Kshs. 10,000 from sale of tender documents was appropriately received in books (Cashbook) as the funds were deposited to the Programme account. The cashbook is available and the auditors can confirm these entries at any time. Attached please find copies of bank statement for the period when the funds were received.

It was also true that an amount of Euro. 1,043,300 (Kshs. 119,718,466) was withdrawn on 12 May 2016 from the Special Account in Central bank to be transferred to the Project operational bank account in Equity Bank Ltd via the exchequer and the Ministry of Agriculture, Livestock and Fisheries in line with the Government Financial regulations. However, the funds were credited to the Project bank account on 4th of July 2016 after the reporting period of 30th June 2016. The delay in releasing the funds to the project was due to non-availability of budgetary provision under the

State Department of Agriculture where the project falls. The funds will therefore be reflected in the financial statements for the subsequent financial year (2016/2017). Attached please find copy of the bank statement of the Programme for the month of July 2016 for further reference.

It was also true that the initial financial statements provided to the auditors did not have this column, however, the financial statements were amended and this column included. In deed the final edition of the financial statements attached to the audit report has this column. Additional copies of the financial statements have also been provided with this response.

Committee Observations and Findings

(i) The total available funds of Ksh. 198,455,600.00 as at 30th June 2015 for the programme was not utilized. only Ksh. 26,220,181.00 (or 13 percent) was so far utilized, fifteen (15) months after inception of the Programme; and

(ii) The delay in utilizations of the funds was attributed to various factors including lengthy procurement process and delays in recruitment of Senior Technical Staff who were to be on board by May 2015 but was delayed until September 2016

Committee Recommendation

The Accounting Officer should ensure that the programme fully takes off and funds utilized in accordance with the laws.

EASTERN AFRICA AGRICULTURAL PRODUCTIVITY PROJECT (IDA CREDIT NO. 4568-KE)

Basis for Adverse Opinion

448. Accuracy of the Financial Statements

(i) The statement of receipts and payments reflects opening cash, surplus for the year and receipts differ with prior years 2014/2015 audited balances as follows:-

	Comparative Balance reflected in the financial statements 2014/15 Kshs.	Amount reflected in the financial statements 2014/2015 Kshs.	Difference Kshs.
Surplus for the year	44,846,500	228,237,881	183,391,381
Cash balance b/f	37,288,974	393,533,064	(356,244,090)
Loan from External			
Development Partners	781,095,881	608,243,172	172,852,709

No justification has been provided for the above differences.

i. The statement of financial assets as at 30 June 2016 reflects comparative cash and cash equivalents balances of Kshs.41,328,889 that differs with 2014/2015 certified financial statements figure of Kshs.224,720,271 by unexplained difference of Kshs.183,391,382.

ii. The loan receipts of Kshs.144,079,228 from External Development Partners includes an amount of Kshs.52,130,400 that was received on 02 July 2015, two days after the close of the previous financial year (2014/2015) but included in the accounts for that year, hence a duplication. Consequently, the accuracy of the opening balances and the accounts for the year ending 30 June 2015 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the difference of Kshs.183, 391,381.00 was occasioned by the fact that we erroneously recognized the balance in the Designated Account (DA) for 2014-2015 Financial year before being received in the Project Kenya Shillings denominated account held at Cooperative bank of Kenya Ltd, as follows:

Designated Account balance…	Kshs.131,260,982
Balance with the Ministry to project account	Kshs. 52,130,400
Total	**Kshs.183,391,382**

The actual opening Cash balance as per the revised (Restated) Receipts and Payments statement is Kshs.44,846,500/=. It was also true that like in the statement of receipts and payments, the Financial Assets statement reflect the same difference of Kshs.183,391,381.00 due to occurrence of the same error of recognizing the balances in the Designated account before being received in the Project local account.The actual balance was kshs.41, 328, 889.00 as per the revised (Restated) statement of Financial Assets.

The Accounting Officer further stated that, it was true that the amount of Kshs.52, 130,400 meant for financial year 2015-2016 was received on 2nd July 2015 in the Project Local Account; although it was received in the line ministry before 30th June 2015. Thus, since the money was received in the project bank account during the financial year under review; the same was utilized within the financial year and therefore no element of duplication of the same.

Committee Observation and Finding

The Committee noted that explanatory note, analysis and documentary evidence have since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3)

months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

449. Pay-As-You-Earn

There is an understatement of P.A.Y.E taxes amounting to Kshs.390,308, that have not been deducted from the employees. The project is in contravention of the law in regard to statutory remittances.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Project was deducting staff allowances tax based on graduated rate as advised by previous internal audit. However, the anomaly was rectified and the project was deducting tax based on the maximum taxation rate of 30% as required. The mix up was highly regretted.

Committee Observation and Finding

The Committee noted that documentary evidence has since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

KENYA AGRICULTURAL PRODUCTIVITY AND SUSTAINABLE LAND MANAGEMENT PROJECT (IDA CREDIT NO. TF 091616)

Basis for Adverse Opinion

450. Transfer from Government Entities

The statement of receipts and payments reflects a figure of Kshs.31,726,450 under transfer from government entities which includes an amount of Kshs.726,450 reflected as a deposit in the bank statement but whose supporting details were not available for audit review. In addition, the same bank statement reflects receipts totaling Kshs.245,400, not supported with documentary evidence but which are excluded from these financial statements.

Consequently, the completeness and validity of receipts from Government entities could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of receipts and payments reflected a figure of Kshs.31,726,450 under transfer from government entities which includes an amount of Kshs.726,450. This amount was a deposit in the bank statement being surrender of outstanding imprest. The error is highly regretted.

Committee Observation and Finding

The Committee noted that records, movement schedule, explanatory note, analysis and documentary evidence have since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

451. Special Accounts Statements

The statement of receipts and payments reflects an amount of Kshs.196,941,629 under proceeds from domestic and foreign grants, which differs with the transfer to the project amount of Kshs.516,953,199 (US$ 5,072,948.66) in the special accounts statements for grant (GEF GRANT NO. TF 091616-KE) for the year ended 30 June 2016. The difference of Kshs.320,011,570 between the two sets of records has not been reconciled or explained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of receipts and payments reflects an amount of Kshs.196,941,629 under proceeds from domestic and foreign grants, which differs with the transfer to the project amount of Kshs.516,953,199 (US$5,072,948.66) in the special accounts statements for grant (GEF GRANT NO.091616-KE). The difference of Kshs.320,011,570 was due to the fact that the amount was received on 3rd July, 2016 in the KAPSLM project account held at KCB. The amount of 11,570 was exchange difference.

Committee Observation and Finding

The Committee noted that documentary evidence has since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

452. Outstanding Imprests

The statement of financial assets and liabilities reflects a figure of Kshs.88,899,427 as outstanding imprests which include amounts totalling Kshs.74,697,738 relating to periods prior to the financial year 2014/2015.

It has not been possible to confirm whether these long outstanding imprests will be recovered. Failure to surrender or account for imprest in the year they related to distorts the results of the financial statements and adversely affects the provisions of subsequent year to which the expenditure will be charged. Further, information and records available indicates that the amount disbursed to three County Service Units (CSU) differed with records held by the three units as detailed below:-

	Amount as per Financial Statements Kshs	Amount as per the Supporting Schedules Kshs	Differences Kshs
Cherenganyi	43,116,147	37,779,018	5,337,129
Kikuyu/Kinale	7,825,268	13,513,988	(5,688,720)
Taita Taveta	6,331,676	8,735,713	(2,404,037)
	57,273,091	60,028,719	(2,755,628)

No reconciliation or explanation was provided for the difference of Kshs.2,755,628 between the two set of records held at the CSUs.

Submission by Accounting Officer

The Accounting Officer stated that it was true the statement of financial assets and liabilities reflects a figure of Kshs.88, 899,427 as outstanding imprests and advances. This amount is composed of advances of Kshs.80,700,317 which have now been revised to Kshs.38,624,249 leaving a balance of Kshs.8,199,110 as imprests. The imprests have since been surrendered. The amounts disbursed to the County Service Units (CSUs) have now been reconciled as per the revised statements of accounts.

Committee Observation and Finding

The Committee noted that documentary evidence has since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

Other Matter

453. Low Funds Absorption

The statement of receipts and payments reflects total receipts of Kshs.228,668,079 and payments of Kshs.224,450,595 during the year. At the same, the accumulated receipts and payments over the life of the project amounted to Kshs.761,731,887 and Kshs.657,692,904 respectively. Out of the accumulated receipts, an amount of Kshs.647,505,319 related to proceeds from Domestic and Foreign Grants. A review of the financing agreement between IDA and the Government of Kenya, dated 7 November 2010 indicates that the project was to last for five (5) years and was to expire in September 2015. However, as at 30 June 2016, the project had absorbed an amount of Kshs.657,692,984 or 65.7% out of the loan amount of Kshs.1,000,000,000 (USD 10,000,000 at an exchange rate of Kshs.100 to the dollar). No evidence has been produced to confirm whether an extension to the project term has been agreed upon between IDA and GOK, and no reason was provided for the low absorption of funds.

Submission by Accounting Officer

The Accounting Officer stated that it was true that a review of the financing agreement between IDA and the Government of Kenya, dated 7th November 2010 indicates that the project was to last for five (5) years and was to expire in September, 2015. However, an extension was agreed upon between IDA and GOK to extend the project to 31st December, 2016.

Committee Observation and Finding

The Committee noted that documentary evidence has since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

AGRICULTURAL SECTOR DEVELOPMENT SUPPORT PROGRAMME – GRANT NUMBER 31100071

Basis for Adverse Opinion

454. Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents' balances of Kshs.214,473,020, which include bank balances of Kshs.198,469,983, cash and imprest advances of Kshs.15,210,163 and Kshs.792,874 respectively. The project did not produce cash books, bank statements and bank reconciliations statements for the above balances. In addition, there were no board of survey reports to confirm the existence of these amounts. In the circumstances, it was not possible to ascertain whether all bank and cash transactions and bank balances during the year were fairly stated.

Submission by Accounting Officer

The Accounting Officer stated that it was true that, the amount of Ksh Kshs.198, 469,983 reflected in the financial statements represents the Ledger fund balances as at 30th June 2016, was overstated

by Ksh 281,496.81, represented by Ksh 160,000 overstated under professional services and Ksh 121,496.81 overstated under routine maintenance respectively,
The cash balances will increase by Ksh 281,496.81 from Ksh 198,469,983 to 198,751,480.

Committee Observation and Finding

The Committee noted that documentary evidence has since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

455. Accuracy of the Financial Statements

The statement of receipts and payments reflect an amount of Kshs.1,009,689,656 under purchase of goods and services which include amounts totalling Kshs.119,881,472 and Kshs.8,842,820 incurred on professional services and routine maintenance of vehicles and other transport equipment, respectively. However, these amounts differed with documentation and supporting schedules of Kshs.119,721,471 and Kshs.8,721,323 by Kshs.160,001 and Kshs.121,497 respectively. No reconciliation was provided for the difference. Consequently, the completeness and accuracy of the figures as disclosed in these financial statements could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that, the amount of Ksh Kshs. Kshs.1,009,689,656,00 reflected in the financial statements represents the Ledger fund balances as at 30th June 2016, was overstated by Ksh 281,496.81, represented by Ksh 160,000 overstated under professional services and Ksh 121,496.81 overstated under routine maintenance respectively. The expenditure will reduce by Ksh 281,496.81 from Ksh 1,009,689,656 to Ksh 1,009,408,159.

Committee Observation and Finding

The Committee noted that documentary evidence has since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

KENYA ADAPTATION TO CLIMATE IN ARID AND SEMI ARID LANDS PROJECT (GEF GRANT NO.TF.096908)

Basis for Qualified Opinion

456. Funds Not Received

The special account statement for the year ended 30 June 2016 reflects amounts totaling Kshs.263,525,854 (US$ 2,597,806.72) as withdrawn from the account held with the Central Bank of Kenya and transferred to the Project. This differs with the Project's statement of receipts and payments, which reflects proceeds from foreign grants of Kshs.155,525,854 as detailed below:-

Date Amount Date Amount Special Account Project Amount Unremitted
Withdrawn Disbursed to the at CBK Kshs. Receipts Kshs. Amount Kshs.
From Special Project
Account at
CBK
1/10/2015 29/10/2015 13,525,854 13,525,854 –
9/12/2015 24/12/2015 130,000,000 130,000,000 –
03/07/2016 03/07/2016 120,000,000 12,000,000 108,000,000
263,525,854 155,525,854 108,000,000
The difference of Kshs.108,000,000 is not reflected in the financial statements.

Submission by Accounting Officer

The Accounting Officer stated that it was true that during the Financial year 2015/2016 audit period the project received KES 155,525,854 as shown below:

Date Amount Withdrawn from Special Account at CBK	Date Amount Disbursed to the Project	Special Account at CBK	Project Amount Receipts
29/10/2015	29/10/2015	13,525,854.00	13,525,854.00
24/12/2015	24/12/2015	130,000,000.00	130,000,000.00
03/07/2015	03/07/2015	12,000,000.00	12,000,000.00
Total		155,525,854.00	155,525,854.00
03/07/2016	03/072016	120,000,000.00	

The amount of Kes 120,000,000 was received during the financial year 2016/17 as indicated by the date (3 July 2016) which shows that the funds were in transit having left the Special Purpose account at the CBK but not yet received by the project.

Committee Observation and Finding

The Committee noted that documentary evidence has since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

DROUGHT RESILIENCE AND SUSTAINABLE LIVELIHOOD PROGRAMME – LOAN NUMBER 2100150028345

Basis for Qualified Opinion

457. Inaccuracies in the Financial Statements

i. The statement of receipts and payments reflects an expenditure of Kshs.7,558,075.00 under compensation of employees, which differs with an amount of Kshs.7,389,675 that is supported with information and documentation by a difference of Kshs.168,400. Further, records availed indicate that the expenditure on compensation of employees relates to allowances paid to staff as salaries and the payments were for four months only.

ii. The statement reflects expenditure of Kshs.84,073,589 under purchase of goods and services, which includes an amount of Kshs.39,356,290 related to domestic travel and subsistence. However, records availed reflect amounts incurred on domestic travel and subsistence that amounted to Kshs.36,600,820 hence resulting in an unreconciled difference of Kshs.2,755,470.

iii. The project did not prepare a trial balance to support the figures in these financial statements.

iv. The financial statements excludes the statement of changes in equity thus it is not in compliance with the International Public Sector Accounting Standards on presentation of financial statements and disclosures.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of receipts and payments reflects an expenditure of Kshs. 7,558,075 under compensation of employees, which differs with an amount of Ksh.7,389,675 that is supported with information and documentation by a difference of Kshs.168,400.

It was also true the statement reflects expenditure of Ksh.84,073,589 under purchase of goods and services, which includes an amount of Kshs.39,356,290 related to domestic travel and subsistence. However, records availed reflect amounts incurred on domestic travel and subsistence that amounted to Kshs.36,600,820 hence resulting in an unreconciled difference of Kshs.2,755,470.
It was also true that the project did not prepare a trial balance to support the figures in these financial statements.

It was also true the financial statements excludes the statement of changes in equity thus it is not in compliance with the International Public Sector Accounting Standards on presentation of financial statements and disclosers.A trial balance has been prepared, schedules in support of compensation of employees & purchase of goods and services have also been done.

Committee Observation and Finding

The Committee noted that documentary evidence has since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

458. Unsupported Expenditure

(i) Acquisition of Non-financial Assets

The statement of receipts and payments reflects an expenditure of Kshs.202,603,315 under acquisition of non-financial assets, which as disclosed in note 8.9 to the financial statements includes an amount of Kshs.154,131,934, incurred under construction of civil works. Out of the expenditure on construction of civil works an amount of Kshs.149,017,576 was paid directly by the Bank while the difference of Kshs.5,114,358 was paid by the project's management. However no documentary evidence was provided to support the Kshs.5,114,358 paid by the project's management.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of receipts and payments reflects an expenditure of Kshs. 202,603,315 under acquisition of non-financial assets, which as disclosed in Note 8.9 to the financial statements includes an amount of Kshs.154,131,934, incurred under construction of civil works. Out of the expenditure on construction of civil works an amount of Kshs.149,017,576 was paid directly by the Bank while the difference of Kshs.5,114,358 was paid by the project's management. However no documentary evidence was provided to support the Kshs.5,114,358 paid by the project's management.The documentary evidence in support of Kshs.5,114,358 has been provided

Committee Observation and Finding

The Committee noted that documentary evidence has since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

(ii) Transfers to other Government Entities

The statement of receipts and payments reflects an expenditure of Kshs.9,403,640 under transfers to other Government entities which, according to note 8.10, represents transfers to County Governments and Kenya Agriculture and Livestock Research Organization (KALRO). However, no documentary evidence has been provided to confirm that the funds were indeed transferred to and received by those Institutions.

Submission by Accounting Officer

It was true that the statement of receipts and payments reflects an expenditure of Kshs.9,403,640 under transfer to other Government entities which, according to Note 8.10 represents transfers to County Governments and Kenya Agriculture and Livestock Research Organization (KALRO). However, no documentary evidence has been provided to confirm that the funds were indeed transferred to and received by those Institutions. The documentary evidence in support of Kshs.9,403,640 alongside a schedule is attached.

Committee Observation and Finding

The figure of Kshs.9,403,640.00 reflected in the statement of receipts and payments under transfer to other Government entities which, according to Note 8.10 represents transfers to County Governments and Kenya Agriculture and Livestock Research Organization (KALRO).This was not reconciled in time for audit.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records devoid of anomalies in compliance with the provisions of Section 68(2) of the PFM Act 2012 and that the correct financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

459. Cash and Cash Equivalents

The statement of financial assets and liabilities reflects an amount of Kshs.46,229,746 under cash and cash equivalents which includes bank and cash in hand balances of Kshs.40,101,781 and

Kshs.6,127,965 respectively. The bank balance of Kshs.40,101,781 includes, an amount of Kshs.996,452, held in Account number 0112006494301 at Co-operative Bank, that has not been supported with a bank reconciliation statement, bank statement, and certificate of balance, cash book and board of survey report. The bank reconciliation statement for the CBK bank balance of Kshs.39,105,328.35 reflects receipts and payments in bank of Kshs.9,390,684 and Kshs.220,825.85 respectively that are not in cash book hence not incorporated in these financial statements. Further, the cash on hand balance of Kshs.6,127,965 comprising of balances held in various counties and agencies, was not supported with a cash book and board of survey report.

Consequently, the accuracy of the cash and cash equivalents' figure of Kshs.46,229,746 as disclosed in the statement of assets and liabilities could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of financial assets and liabilities reflects an amount of Kshs.46,229,746 under cash and cash equivalents which includes bank and cash in hand balances of Kshs.40,101,781 and Kshs.6,127,965 respectively. The bank balance of Kshs.40,101,781 includes, an amount of Kshs.996,452, held in Account number 0112006494301 at Co-operative Bank, that has not been supported with a bank reconciliation statement, bank statement, certificate of balance, cash book and board of survey report. The bank reconciliation statement for the CBK bank balance of Kshs.39,105,328.35 reflects receipts and payments in bank of Kshs.9,390,684 and Kshs.220,825.85 respectively that are not in cash book hence, not incorporated in these financial statements. Further, the cash on hand balance of Kshs.6,127,965 comprising of balances held in various counties and agencies, was not supported with a cash book and board of survey report.

Consequently, the accuracy of the cash and cash equivalents' figure of Kshs.46,229,746 as disclosed in the statement of assets and liabilities could not be confirmed. The cash book, bank statement and bank reconciliation are attached.

Committee Observation and Finding

The Committee noted that documentary evidence has since been provided and verified. Therefore, the matter is resolved.

Committee Recommendation

The Accounting Officer should ensure that the entity keeps complete financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

21.0. STATE DEPARTMENT OF LIVESTOCK

FINANCIAL STATEMENTS FOR VOTE 1162

Mr. Harry Kimtai, the Accounting Officer State Department of Livestock appeared before the Committee on 23rd August, 2018 to adduce evidence on the audited financial statements for Vote 1162 State Department of Livestock for the financial year (FY) 2015/2016. The Minutes of the Committee's Sittings on evidence taken are attached to this report. He was accompanied by the following Officials:

1. **MS. Lorna Odero - Director of Administration;**
2. **Mr. Joseph Mwangi Kamau - Principal Finance Officer;**
3. **Mr Julius Kiptarus - Director Livestock;**
4. **Ms. Penninah W. Ndirangu - Principal Accountant;**
5. **Mr. Julia Kinywa - Deputy Director Veterinary Services;**
6. **Mr. Kiptoo Bett -Project Financial Accountant;**
7. **Mr. William Koech - SDL-HRM;**
8. **Mr. James Citro - SDL- PALHD; and**
9. **Mr. Nicholas Kivuvo - SDL- ADVS**

Basis for Qualified Opinion

460. Cash and Cash Equivalents

The statement of assets reflects a balance of Kshs.67,745,718, under cash and cash equivalents. This balance comprises recurrent bank account (Kshs.385,391), development bank account (Kshs.287,096), deposit bank account (Kshs.65,897,702) and cash (Kshs.1,175,528). The individual bank account balances agree with the cashbooks for the respective accounts and the Board of Survey report as at 30 June 2016. However, bank reconciliations as at 30 June 2016 reflect balances that differ from those reflected in the Board of Survey report and the respective cash books where the development and recurrent bank account cash book balances are indicated as Kshs.2,886,144,715 and Kshs.1,530,749,044, respectively. Further, bank reconciliation statements for the deposit account were not prepared and submitted for audit.

In the circumstance, the accuracy of the cash and cash equivalents balance of Kshs.67,745,718 reflected in the statement of financial position cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there were variances between the figures reflected in the bank statements and those in the cash book and board of survey report for recurrent and development accounts. He informed the Committee that the Accounts were prepared using system generated reconciliations which normally have errors. Manual reconciliations have since been prepared.

Committee Observations and Findings

(i) **The statement of assets reflects a balance of Kshs.67,745,718, under cash and cash equivalents. This balance comprises recurrent bank account (Kshs.385,391), development bank account (Kshs.287,096), deposit bank account (Kshs.65,897,702) and cash (Kshs.1,175,528).**

(ii) Bank reconciliations as at 30 June 2016 reflect balances that differ from those reflected in the Board of Survey report. The bank reconciliation statements for the deposit account were not prepared and submitted for audit.

(iii)The Accounts were prepared using system generated reconciliations which are said to have errors. Manual reconciliations have since been prepared.

Committee Recommendations

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within three months after the end of each financial year pursuant to the provisions of regulation90 of the Public Finance Management (National Government) Regulations, 2015.

461. Outstanding Imprests

The statement of assets also reflects a balance of Kshs.18,444,160 under outstanding imprests. However, no explanation has been provided for failure to have the imprest accounted for or surrendered on or before 30 June 2016 as required by Regulations 91 to 96 of the Public Finance Management (National Government) Regulations, 2015 which prescribes how imprests should be managed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Accounts reflect a balance of Kshs.18,444,160 under outstanding imprests which had not been surrendered or accounted for as at 30 June 2016 as required by financial regulations. The reason for the balances having not been surrendered or accounted for was that imprests are normally running balances which sometimes inevitably transcend financial years depending on the time allocated for the activities for which they were issued.

Committee Observations and Findings

A balance of Kshs.18,444,160 under outstanding imprests was not surrendered on or before 30 June 2016 as required by Regulations 91 to 96 of the Public Finance Management (National Government) Regulations, 2015.

Committee Recommendations

Accounting officers must at all times ensure that they recovery of imprest pursuant to the provisions of regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015.

462. Unsupported Balances

The statement of assets further reflects balances of Kshs.64,019,412, Kshs.506,979 and Kshs.65,897,702 under district suspense, advances and deposits and retentions, respectively. However, the balances have not been supported with schedules, analyses or any other documentary evidence. As a result, the validity and accuracy of the balances cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Accounts reflect balances of Kshs.64,019,412, Kshs.506,979 and Kshs.65,897,702 under district suspense, advances, and deposits and retentions, respectively, which have not been supported. I wish to report that the balances have since been supported and the supporting schedules submitted to the office of the Auditor-General.

Committee Observations and Findings

- **(i) The balances of Kshs.64,019,412, Kshs.506,979 and Kshs.65,897,702 were not supported.**
- **(ii) The balances have since been supported and the supporting schedules submitted to the office of the Auditor General.**

Committee Recommendations

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within threemonthsaftertheendofeachfinancialyear pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

463. Land

As similarly reported in the previous years, the Government, through Gazette Notice No. 890 dated 5 March 1957, allocated 1,400 acres of land in Ngong, Kajiado County, to the Department of Veterinary Services for the construction of a veterinary training school, establishment of a veterinary farm, and installation of related facilities. However, information and documents available indicate that the land measures 1,500 acres. The Department has not provided explanation for the difference of 100 acres.

Further, information and records at the Ministry of Agriculture, Livestock and Fisheries and Ministry of Lands and Physical Planning indicate that some Government agencies and private organizations have irregularly taken possession of 509 acres of the land. The Department has to-date not obtained title of ownership of the land from the Ministry of Lands and Physical Planning. In the circumstances, the ownership and size of the land cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the Ministry has made efforts to survey the land but has met obstacles in finalizing the process. The obstacles include: claims by the community that the land belongs to them, approval from the Kajiado County Government and claims by some public and private institutions such as Police, Meteorological Department, Kenya Defense Forces(Army) and Halal. The Ministry has requested the National Land Commission on whose responsibility it is to secure public land, to intervene.

The Chairman of National Land Commission (NLC) called for a consultative meeting on 21st September 2016 involving various stakeholders Ngong veterinary farm to resolve the issue.

A team of officers from the Ministry of Lands Nairobi Headquarters led by the Director of Survey and accompanied by the Deputy County Commissioner of Kajiado North visited the farm on 11th September, 2017 with the aim of implementing a Presidential directive made on 4th August, 2017. The team wanted to ascertain and appreciate the physical boundaries and institutions within the farm before further survey.

A preliminary survey carried out by the Ministry of Lands and Physical Planning established that the acreage of the parcel is 601.19 (equivalent to 1,485.5 acres).

Committee Observations and Findings

(i) The Government, through Gazette Notice No. 890 dated 5 March 1957, allocated 1,400 acres of land in Ngong, Kajiado County, to the Department of Veterinary Services for the construction of a veterinary training school, establishment of a veterinary farm, and installation of related facilities.
(ii) The information and documents available indicate that the land measures 1,500 acres and the Department has not provided explanation for the difference of 100 acres.
(iii) Some Government agencies and private organizations have irregularly taken possession of 509 acres of the land.
(iv) A preliminary survey carried out by the Ministry of Lands and Physical Planning established that the acreage of the parcel is 601.19 hectares (equivalent to 1,485.5 acres).

Committee Recommendations

The Accounting Officer should take prudent steps to secure ownership of 1,485.5 acres of land in Ngong, Kajiado County, allocated to the Department of Veterinary Services for the construction of a veterinary training school, establishment of a veterinary farm, and installation of related facilities.

464. Pending Bills

As disclosed under Note 15.1 and annex 1 to the financial statements, the Department had pending bills totalling Kshs.111,444,776 as at 30 June 2016 which were carried forward to 2016/2017. Had the bills been settled and expenditure accounted for in 2015/2016, the statement of receipts and payments for the year ended 30 June 2016 would have reflected an increased deficit of Kshs.194,447,934 instead of the deficit of Kshs.80,003,158 recorded. Failure to settle bills in the year they occur distorts the accounts for the year and affects the budget for the subsequent year adversely.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the pending bills totalling to Kshs.111,444,776 were not settled in 2015/2016 but were instead carried forward to 2016/2017. This was occasioned by the following:

(i) Late approval of the 2nd supplementary budget
(ii) IFMIS processing challenges
(iii) Lack of Exchequer

However, I wish to report that all the pending bills were verified and processed as a first charge in the financial year 2016/2017.

Committee Observations and Findings

(i) The committee observed that the department had pending bills totalling Kshs.111,444,776 as at 30 June 2016 which were carried forward to 2016/2017.
(ii) All the pending bills were verified and processed as a first charge in the financial year 2016/2017.

Committee Recommendations

The Accounting Officers should at all cost avoid incurring pending bills in any financial year since any pending bill forms a first charge in the subsequent financial year's budget thereby impeding smooth implementation of the subsequent budget.

465. Receipts

The total receipts' balance of Kshs.5,067,539,969 reflected in the statement of receipts and payments includes, as disclosed in Notes 2 and 3 to the financial statements, receipts totalling Kshs.23,291,082 and Kshs.187,606,317 relating to direct payment and foreign grant proceeds from bilateral donors and international organisations that have however, not been supported with any documentation. As a result, the accuracy of the receipts' balance of Kshs.5,067,539,969, being receipts for the year, cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Accounts reflect receipts totaling Kshs.23,291,082 and Kshs.187,606,317 relating to direct payment and foreign grant proceeds from bilateral and international organizations that have not been supported with documentation. I wish to report that the balances have since been supported and the supporting documentation submitted to the Auditor-General for review.

Committee Observations and Findings

(i) The committee observed that the total receipts' balance of Kshs.5,067,539,969 reflected in the statement of receipts and payments includes, receipts totalling Kshs.23,291,082 and Kshs.187,606,317 from bilateral donors and international organisations were not supported with any documentation.
(ii) The balances have since been supported and the supporting documentation submitted to the Auditor-General for review and have been verified.
(iii)The committee marked the matter as resolved.

466. Use of Goods and Services

The statement of receipts and payments reflects expenditure totalling Kshs.897,406,250 under use of goods and services which, as shown under Note 6, was incurred under various items of the component. However, several variances were noted between the balance of Kshs.897,406,250 reflected in the financial statements and the aggregate expenditure balance of Kshs.603,806,558 derived from tabulation of payment vouchers, the cashbook and supporting schedules for each item. No explanation or reconciliation has been provided for the variances totalling Kshs.293,599,692 between these records. As a result, the accuracy of the expenditure totalling Kshs.897,406,250 recorded under use of goods and services cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that supporting documents had not been provided for expendituretotallingKsh.293,599,692 during the time of audit. This is because the amounts involved relate to field expenditure whose returns had not been obtained at the time of audit. However, I wish to report that the returns have since been obtained and submitted for audit verification. The returns comprise of Kshs.172,360,912 and Kshs.121,238,780 relating to recurrent expenditure and development expenditure respectively.

Committee Observations and Findings

(i) The returns have since been obtained and submitted for audit verification to the satisfaction of the Committee. The returns comprise of Kshs.172,360,912 and Kshs.121,238,780 relating to recurrent expenditure and development expenditure respectively.
(ii) The committee marked the matter as resolved.

Committee Recommendation

Accounting Officers must at all times ensure that explanations sought by the Auditor General plus the necessary supporting documents are provided in time to avoid audit queries.

VETERINARY SERVICES DEVELOPMENT FUND

Basis for Qualified Opinion

467. Cash and Cash Equivalents

The statement of financial position reflects an amount of Kshs.45,093,798 under cash and cash equivalents as at 30 June 2016. A review of the cash book and bank reconciliation statements revealed that an amount of Kshs.8,903,704 relates to unpresented cheques which includes six stale cheques amounting to Kshs.138,800 that had not been reversed in the cash book for unexplained reasons.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Accounts reflect an amount of Ksh.45,093,798.00 under cash and cash equivalents as at 30th June 2016 and that the cash book and reconciliation statements reveal an amount of Ksh.8,903,704.00 relating to unpresented cheques, which include six stale cheques with amounts totalling Kshs.138,800 that had not been reversed in the cash book for unexplained reason. However, I wish to report that the cheques have since been reversed in the cash book and the necessary receipt voucher raised. I wish to further report that the receipt voucher attached shows an amount of Kshs.234,012, the difference of Kshs.95,212 relates two cancelled cheques which were reversed at the same time with the stale cheques using the same voucher.

Committee Observations and Findings

The statement of financial position reflects an amount of Kshs.45,093,798 under cash and cash equivalents as at 30 June 2016. Cash book and bank reconciliation statements revealed that an amount of Kshs.8,903,704 relates to unpresented cheques amounting to Kshs.138,800 that had not been reversed in the cash book for unexplained reasons.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps complete and reconciled financial and accounting records including up to date cashbook that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2) (k) of the PFM Act 2012.

468. Employee Costs

The statement of financial performance reflects an amount of Kshs.16,949,382 under employees costs. The amount includes Kshs.15,133,424 relating to domestic and foreign travel, motor vehicle expenses, subsistence allowances and such related expenses which ought to have been classified under general expenses.In addition, the employees costs increased from Kshs.9,965,960 in 2014/2015 to Kshs.16,949,382 in 2015/2016, which is an increase of Kshs.6,983,422 or 70%. No explanation has been given for the huge increase.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of financial performance reflects an amount of Ksh.16,949,382.00 under the employee costs which includes Kshs.15,133,424 relating to domestic and foreign travel, motor vehicle expenses, subsistence allowances and such related expenses which ought to have been classified under general expenses. In addition, the employee costs increased from Ksh.9,965,960.00 in 2014/2015 to Ksh.16,949,382.00 in 2015/2016, an increase of Ksh.6,983,422.00 or 70%.

He reported that the financial statements of the Fund have since been revised and the misallocated expenditures now placed under the right item of general expenses. In addition, the issue of huge increase in employee costs has been resolved since the items making the expenditure huge have been removed from employee costs to general expenses.

Committee Observations and Findings

(i) The Fund have since been revised and the misallocated expenditures now placed under the right item of general expenses. In addition, the issue of huge increase in employee costs has been resolved since the items making the expenditure huge have been removed from employee costs to general expenses.
(ii) The committee marekd the matter as resolved.

469. General Expenses

The statement of financial performance reflects general expenses totalling Kshs.34,154,623. The amount as disclosed under Note (7) includes specialized materials expenditure of Kshs.21,860,224 compared to Kshs.8,710,009 in 2014/2015. No reason has been given for the significant increase in acquisition of specialized materials by Kshs.13,141,215 or 150% during the year under review.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the accounts reflect general expenses totaling Ksh.34,154,623.00 which includes specialized materials expenditure of Ksh.21,860,224.00 compared to Ksh.8,710,009.00 in 2014/2015, showing a significant increase in acquisition of specialized materials by Ksh.13,141,215.00 or 150% during the year.

He further reported that in 2014/2015, there was a delay in the approval of the budget by the National Treasury (the budget was approved on 27th January 2015) hence taking a long time without making any procurement and little was acquired during the year. However, in 2015/2016, the budget was approved in time and the acquisition of specialized materials began on time hence the significant increase in that financial year, as per attached approval.

Committee Observations and Findings

(i) The committee observed that the expenditure on specialized materials was Kshs.21,860,224 compared to Kshs.8,710,009 in 2014/2015. No reason was given for the significant increase in acquisition of specialized materials by Kshs.13,141,215 or 150%.

(ii) There was a delay in the approval of the budget by the National Treasury (the budget was approved on 27th January 2015) hence taking a long time without making any procurement and little was acquired during the year.

Committee Recommendations

The National Treasury must at all times endeavor to disburse funds allocated to every state department in good time to facilitate the smooth running of activities.

470. Accuracy of the Financial Statements

i. The statement of financial position reflects a comparative figure of Kshs.32,849,614 (year 2014/2015) for property, plant and equipment which, however, differs with the net book value of Kshs.39,827,703 reflected under Note 9 as at 30 June 2015.

ii. Note 9 to the financial statements also reflects a comparative net book value for motor vehicles of Kshs.4,347,060 (year 2014/15) which also differs with the nil balance reflected in the audited financial statements for the year ended 30 June 2015.

iii. Note 9 to the financial statements further reflects figures of Kshs.9,044,430, Kshs.520,216 and Kshs.414,525 relating to depreciation for the year 2015/2016 for special plant; computers and other accessories; and furniture and fittings instead of the computed figures of Kshs.4,162,914, Kshs.320,708 and Kshs.138,538 respectively.

No explanation or reconciliations have been provided for the above differences. Consequently, the accuracy of the property, plant and equipment balance of Kshs.28,761,768 cannot be ascertained.

Submission by Accounting Officer

1. The Accounting Officer submitted that it was true the statement of financial position reflected a comparative figure of Ksh.32,849,614.00 for the total book value of property, plant and equipment which, however differed from the figure of Ksh.39,827,703.00 reflected under note 9. This was an error which has since been corrected in the revised financial statements.
2. The Accounting Officer submitted that it was true that note 9 to the financial statements also reflected a comparative net book value for motor vehicle of Ksh.4,347,060 which differed from the nil balance reflected in the audited financial statements for the year ended 30th June 2015. This was an error when carrying forward the balances which has already been corrected in the revised financial statements.
3. The Accounting Officer submitted that it was true that under note 9 to the financial statements further reflects figures of Kshs.9,044,430.00, Kshs.520,216.00 and Kshs.414,525.00 relating to depreciation for the year for special plant, computers and other accessories, and furniture and fittings instead of the computed figures of Kshs.4,162,914.00, Kshs.320,708.00 and Kshs.138,538.00 respectively. This was an anomaly which has also been corrected in the revised financial statements

Committee Observations and Findings

(i) **The statement of financial position reflects a comparative figure of Kshs.32,849,614 (year 2014/2015) for property, plant and equipment which, however, differs with the net book value of Kshs.39,827,703.**
(ii) **Note 9 to the financial statements also reflects a comparative net book value for motor vehicles of Kshs.4,347,060 (year 2014/15) which also differs with the nil balance reflected in the audited financial statements.**
(iii) **No explanation or reconciliations have been provided for the above differences.**

Committee Recommendations

Accounting Officers must at all times ensure that explanations sought by the Auditor General plus the necessary supporting documents are provided in time to avoid audit queries.

DONOR FUNDED PROJECTS

MAINSTREAMING SUSTAINABLE LAND MANAGEMENT IN AGRO-PASTORAL SYSTEMS OF KENYA PROJECT - NUMBER 3245, GEF ID 3370

Basis for Adverse Opinion

471. Cash and Cash Equivalents

The statement of financial assets and liabilities as at 30 June 2016 reflects Kshs.17,679,477, as cash and bank balance which differs with the four cash book balances of Kshs.434,903 by Kshs.17,244,574. No reconciliation or explanation was provided for this variance.

In addition, the bank reconciliation statements reflect stale cheques in Narok and Kyuso amounting to Kshs.172,614 that had not been reversed in the year end. Further, there was no board of survey reports availed to support the cash and balances of Kshs.434,903. Under the circumstances, it was not possible to ascertain whether all bank transactions and bank balances during the year under audit were fairly stated.

Submission by Accounting Officer

The Kshs.17,679,447.00 was a total representing unutilized funds issued as Authority to Incur Expenditure (A.I.E) i.e. funds which the project had not spend by the closure of the respective financial years of 2013/2014, 2014/2015 and 2015/2016, but which were subsequently spent and expenditure returns submitted to the headquarters, as indicated below:

S/NO	FINANCIAL YEAR	UNUTILIZED FUNDS ISSUED AS A.I.E NOT SPEND IN THE END OF FINANCIAL YEAR
1	2013/2014	4,837,780.00**Annex 11(b)**
2	2014/2015	3,174,756.00**Annex 11(c)**
3	2015/2016	9,666,911.00**Annex 11(d)**
		17,679,447.00

Since these were amounts which were subsequently spent and expenditure returns submitted, they would not therefore represent cash and cash equivalents.

The correct financial entry for cash and cash equivalents for 2015/2016 was Kshs.434,902.85, as shown below.

S/NO	SUB COUNTY	BANK BALANCES AS AT 30-06-2016
1	MBEERE NORTH	16,144.85
2	KYUSO	8,013.15
3	DADAAB	186,542.65
4	NAROK NORTH	224,202.20
		434,902.85

These balances are supported by the attached bank balances, bank reconciliation statements and board of survey reports from Kyuso, Dadaab, Mbeere North and Narok North Sub Counties.

The accounting officer submitted that it was also true that the stale cheques in Narok and KyusoSub Counties amounting to Kshs.172,614 had not been reversed by the end of financial year 30/06/2016 but the error was corrected in 2016/2017and the cheques remitted to Commissioner of Domestic Taxes (attached bank reconciliations for Narok North and KyusoSub Counties for 2016/2017 and extract of SLM project financial report page 17- response for 2015/2016 audit query on unpresented or stale cheques).

Committee Observations and Findings

(i) The committee observed that the statement of financial assets and liabilities as at 30 June 2016 reflects Kshs.17,679,477, as cash and bank balance which differs with the four cash book balances of Kshs.434,903 by Kshs.17,244,574.
(ii) No reconciliation or explanation was provided for this variance.

Committee Recommendations

(i) Accounting Officers must at all times ensure that any variances captured in financial statements are reconciled promptly.
(ii) Accounting Officers must at all times ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

STANDARDS AND MARKET ACCESS PROGRAMME: GRANT NUMBER 2012/023566

Basis for Adverse Opinion

472. Accuracy of the Financial Statements

The statement of receipts and payments reflects an amount of Kshs.153,638,681 under proceeds from domestic and foreign grants, which differs with the proceeds of Kshs.139,017,103.00 from

European Union disclosed under note 8.3 to the financial statements by an unexplained Kshs.14,621,578 difference.

Submission by Accounting Officer

The accounting officer submitted that it was true the statements of receipts and payments reflects an amount of Kshs.153,638,681 under proceeds from domestics and foreign grants, which differs with the proceeds of Kshs.139,1017,103 from European Union which was disclosed under Note 8.3 to the financial statements by an unexplained Kshs.14,621,578 difference.

He reported that the variance of Kshs.14,621,587 relates to opening balance that was inadvertently omitted in Note 8.3. However, the relevant Note has since been revised appropriately.

Committee Observations and Findings

The committee observed that the statement of receipts and payments reflects an amount of Kshs.153,638,681 under proceeds from domestic and foreign grants, which differs with the proceeds of Kshs.139,017,103.00 from European Union disclosed under note 8.3 to the financial statements by an unexplained Kshs.14,621,578 difference.

Committee Recommendations

(i) Accounting Officers must at all times ensure that any variances captured in financial statements are reconciled promptly.
(ii) Accounting Officers must at all times ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

473. Unsupported Balances- Purchase of Goods and Services

The statement of receipts and payments reflects an expenditure of Kshs.123,217,277 under purchase of goods and services which includes an amount of Kshs.81,575,059 on consultancy services paid directly by the financier that has not been supported with documentary evidence. Consequently, the propriety of the expenditure of Kshs.81,575,059 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Accounts reflect an expenditure of Kshs.123,217,277 under purchase of goods and services which includes Kshs.81,575,059 incurred on consultancy services paid directly by the financier that has not been supported with documentation. He reported that the documentation has since been submitted to the auditors for review.

Committee Observations and Findings

The committee observed that the statement of receipts and payments reflects an expenditure of Kshs.123,217,277 under purchase of goods and services which includes an amount of Kshs.81,575,059 on consultancy services paid directly by the financier that has not been supported with documentary evidence.

Committee Recommendations

Accounting officers must at all times ensure that they prepare and submit clear and comprehensible annual financial statements to the Auditor General within threemonthsaftertheendofeachfinancialyear pursuant to the provisions of section 81(3) of the Public Finance Management Act, 2012.

474. Cash and Cash Equivalents

The statement of receipts and payments reflects an amount of Kshs.56,163,422 which agrees to the cash book balance. However, the project had opened with a balance of Kshs.14,621,587, which has not been included in these financial statements. Consequently, the cash and cash equivalents are misstated with an amount of Kshs.14,621,587.

Submission by Accounting Officer

The accounting officer submitted that it was true that the Accounts reflect a cash and cash equivalents balance of Kshs.56,163,422 which agrees to the cash book balance but which excludes an opening balance of Kshs.14,621,587 and which has, therefore been excluded from the Accounts. He reported that the financial statements have since been revised appropriately.

Committee Observations and Findings

(i) The project had opened with a balance of Kshs.14,621,587, which has not been included in these financial statements.
(ii) The financial statements have since been revised appropriately.

Committee Recommendations

(i) Accounting Officers must at all times ensure that any variances captured in financial statements are reconciled promptly.
(ii) Accounting Officers must at all times ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.

REGIONAL PASTORAL LIVELIHOOD RESILIENCE PROJECT – CREDIT NUMBER KE53880

Basis for Qualified Opinion

475. Cash and Cash Equivalents

i. The statement of financial assets and liabilities reflects a cash and cash equivalents' balance of Kshs.93,763,393, which includes an amount of Kshs.90,048,866 under CBK A/C 1000216395, Kshs.33,631 in I&M Bank A/C 0100771271211 and Kshs.3,680,895 in other various project accounts operated by the project in the Counties. The amounts of Kshs.33,631 and the Kshs.3,680,895 were not supported with Board of Survey certificates hence, unable to confirm their accuracy.
ii. The CBK bank reconciliation statement reflects an amount of Kshs.4,532,574.05 as payment in bank statement not yet recorded in the cash book which are excluded in these financial statements. Also excluded are receipts totalling Kshs.765,882.40 in bank and not in cash book.

Submission by Accounting Officer

1. The Accounting Officer submitted that the amounts of Kshs.33,631 were the balances in the project designated (dollar) account held at the Central Bank of Kenya and operated by the National Treasury. The amounts of Kshs.3,680,895 were a total of balances for the 14 project county accounts as per the schedule below.

	GOK	**IDA**	**TOTAL**
NAROK	3,279.80	849,692.00	852,971.80
KAJIADO	33,115.80	3,235.00	36,350.80
MARSABIT	2,950.00	23,838.00	26,788.00
TURKANA	480.00	4,977.00	5,457.00
BARINGO	997.30	2,523.00	3,520.30
WEST POKOT	583.00	721,966.00	722,549.00
LAIKIPIA	536,565.60	34,506.00	571,071.60
SAMBURU	17,910.80	13,249.00	31,159.80
GARISSA	11,692.00	141,846.00	153,538.00
ISIOLO	839.00	15,655.00	16,494.00
WAJIR	3,852.70	880,015.00	883,867.70
LAMU	1,483.00	12,436.80	13,919.80
MANDERA	9,399.00	320,874.20	330,273.20
TANA RIVER	4,315.00	28,619.00	32,934.00
TOTAL	**627,463**	**3,053,432**	**3,680,895.00**

2. These are errors which arose because the Project does not have a separate bank account for GOK funds but shares one account with the Ministry’s development account. The amounts of Kshs.4,532,574 in reconciliation were non project payments which were refunded from the GOK development bank account. The amounts of Kshs.765,882 were unspent imprests from the GOK component which were received IDA account instead of GOK account. They were therefore returned to the GOK development account since the imprests had not originated from the project account.

Committee Observations and Findings

(i) **The amounts of Kshs.33,631 and the Kshs.3,680,895 were not supported with Board of Survey certificates.**
(ii) **The CBK bank reconciliation statement reflects an amount of Kshs.4,532,574.05 as payment in bank statement not yet recorded in the cash book which are excluded in these financial statements.**
(iii) **The amounts of Kshs.4,532,574 in reconciliation were non project payments which were refunded from the GOK development bank account. They were therefore returned to the GOK development account since the imprests had not originated from the project account.**

Committee Recommendations

(i) **Accounting Officers must at all times ensure that any variances captured in financial statements are reconciled promptly.**
(ii) **Accounting Officers must at all times ensure that they submit financial statements for review at least within three months after the end of the financial year pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012.**

476. Imprests and Advances

The statement of financial assets and liabilities reflects an amount of Kshs.2,929,300 under imprests and advances, that has not been supported with documentary evidence and has not been surrendered.

Submission by Accounting Officer

The accounting officer submitted that it was true that the statement of financial assets and liabilities reflects an amount of Kshs.2,929,300 under imprests and advances, which has not been supported with documentary evidence and has not been surrendered. The imprestshave since been surrendered. The status thus stands as follows:

S/No.	Name	Amount	Current status
1	Wycliffe Murekefu	1,199,000	Fully surrendered
2	Elizabeth Mutisya	682,900	Fully surrendered
3	Garissa County	20,000	Fully rebanked
4	Judy Gachora	859,400	Fully surrendered
5	Moses Mwangi	168,000	Fully surrendered

Committee Observations and Findings

(i) **There was an outstanding imprest and advances of Kshs.2,929,300held by various officers.**
(ii) **The Accounting Officer failed to effectively manage and control issues of imprests and advances by not supporting them with documentary evidence.**
(iii) **The Accounting Officer failed to recover outstanding imprest within 48 hours pursuant to the provisions of Regulation 93(7) of the PFM (National Government) Regulation 2015.**

(iv)The committee marked the matter as resolved.

477. Project Bank Account

The Project management has not opened a bank account for receiving Government of Kenya counterpart funds. As a result, payment vouchers for the project are submitted to the Ministry for processing and payment from the Ministry's account. This is contrary to the requirements of the Project Financial Management Manual, which requires that a local bank account be opened in the name of the Project and that the signatories to the account should be the Project Team Leader and/or Project financial accountant and Head of Accounting Unit at the Ministry.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the project management has not opened a bank account for receiving GOK counterpart funds and payment vouchers are submitted for processing and payment from the Ministry's account. He reported that a request was made to the National Treasury on 3rdSeptember 2015 vide our letter (MLD.AC.EECC.CBK/VOL.1/161) on the matter. No response has since been received.

Committee Observations and Findings

(i) The committee observed that the Project management has not opened a bank account for receiving Government of Kenya counterpart funds.contrary to the requirements of the Project Financial Management Manual.

(ii) The matter was not resolved.

Committee Recommendations

(i) The Accounting Officer should ensure that a follow up is made with the National Treasury to know the status of the request to open a bank account for receiving GOK counterpart funds, three months after the adoption of this report.

(ii) The Accounting Officer should ensure that project management opens a bank account for receiving GOK counterpart funds to prevent the query from being carried over again.

22.0. STATE DEPARTMENT OF FISHERIES

FINANCIAL STATEMENTS FOR VOTE 1163

Prof. Micheni Ntiba, the Accounting Officer for Vote 1163, State Department of Fisheries appeared before the Committee on 28th August, 2018 to adduce evidence on the audited Financial Statements ofVote 1163 State Department of Fisheries for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **Ms. Susan Imende - Ag. Director General;**
2. **Mr. Henry Ondara - Chief Accountant;**
3. **Ms. Priscilla Karanja - Ag. Head of Accounts;**
4. **Mr. Joseph M. Katumo - Chief Economist;**
5. **Ms. Jane N. Kinyai - Deputy Director Finance; and**
6. **Ms. Sharon Cheredi - Finance Officer**

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this State Department.

STATE DEPARTMENT OF FISHERIES- REVENUE STATEMENT HEAD 000000-156 FISHING RIGHTS

Basis for Disclaimer of Opinion

478. Unsupported Revenue

The statement of revenue and transfers for the State Department of Fisheries for the year ended 30 June 2016 reflects revenue totaling Kshs.319,598,779 received from fees and licenses levied on both local and foreign vessels that engaged in fishing within Kenya's territorial waters. However, no information or documentary evidence was availed to confirm the number of vessels, the rate of the fees and other levies on these vessels, or to support the revenue collected. Consequently, the completeness and validity of revenue figure of Kshs.319,598,779 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer admitted that the statement of revenue and transfers totaling to Kshs.319,598,779 received from fishing in territory waters was not supported by documentary evidence.He reported that the amount has since been supported by schedules, copies of licenses and miscellaneous receipts. He proceeded and tabled the evidence. And the auditors were to verify the evidence.

Committee Observations and Findings

(i) The submission by the Accounting Officer the amount of Kshs.319,598,779 has since been supported by schedules, copies of licenses and miscellaneous receipts have been availed for audit review was satisfactory.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012

479. Unsupported Remittance

The revenue statement as disclosed under note 3 to the accounts reflects a balance brought forward figure of Kshs.4,473,244 that is reported to have been surrendered to the National Treasury together with collections for the year leaving a nil balance as at 30 June 2016. However, no documentary evidence has been provided to support the remittance of the Kshs.4,473,244 to the exchequer.

Submission by accounting officer

The Accounting Officer submitted that the documentary evidence to support the remittance has since been provided for audit review.

Committee Observationsand Findings

(i) **The Committee with advice from Office of the Auditor General observed that the issue has been resolved since the remittance has been supported.**
(ii) **The committee marked the matter as resolved.**

Committee Recommendations

(i) **Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.**
(ii) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

23.0. MINISTRY OF INDUSTRIALISATION AND ENTERPRISE DEVELOPMENT FINANCIAL STATEMENTS FOR VOTE 1171

Ms. Betty Maina,the Accounting Officer for Vote 1163, Ministry of Industrialization and Enterprise Development appeared before the Committee on 24thSeptember, 2018 to adduce evidence on the audited Financial Statements of Vote 1171Ministry of Industrialization and Enterprise Development for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. She was accompanied by the following Officials:

1. **Mr. Momata Gichana - Senior Chief Finance Officer;**
2. **Ms. Emily Sabala - Chief Accountant;**
3. **Mr. Lawrence Selei - Economist;**
4. **Ms. Everlyn Ongondi – Senior Principal Finance Officer;**
5. **Mr. Abraham Wachira - PFO; and**
6. **Mr. David K. Obonyo - DCCD**

Basis for Qualified Opinion

480. Unexplained Transfers for Coffee Debt Waivers

The statement of receipts and payments for the year ended 30 June 2016 reflects a payment of Kshs.501,474,509 under the grants and other transfers which include Kshs.500 million to 27 Co-operative Societies being part clearance of debt under the coffee debt waivers programme. Although the validation exercise carried out in 2011 had identified 23 Societies as beneficiaries to the debt waivers, it was not clear why the Ministry excluded three (3) months Saccos namely Meru Central Cooperative Union, Kagaari South Farmers' Cooperative Society Ltd and Kisii Farmers' Cooperative Union with validated debts totaling Kshs.97,245,910. However, it later emerged that the Ministry paid Kshs.78,444,149 to seven (7) other Saccos which had not been identified as deserving of debt waiver during the validation exercise.

No reasons were given for exclusion of the Co-operatives, the criteria used to select the Saccos to be paid and reasons for paying Saccos whose debts had not been validated or supported. Further, included in the payments of other grants and transfers of Kshs.501,474,509 is an amount of Kshs.1,474,509 that has not been supported and whose propriety therefore, could not be confirmed. In the circumstances, it has not been possible to ascertain whether funds were channeled to the intended beneficiaries and utilized for the intended purposes.

Submission by Accounting Officer

The Accounting Officer submitted that the payment for coffee debt waivers was processed on the basis of validation reports. Two (2) Saccos namely Meru Central Cooperative Union (Meru Central District Union Ltd) and Kisii Farmers' Cooperative Union (Gusii Farmers Union Ltd) which were not paid along with others, were subsequently paid as per the attached copies of the 3 validation reports. On the contrary, Kagaari South Farmers Cooperatives Society Ltd was found ineligible by the verification team, hence it was not among beneficiaries (see attached copy of validation reports). She submitted that Payment of **Kshs 78,444,149.25** was made to seven Saccos/Unions which were identified as deserving cases for debt waiver (see also attached copy of validation report of November, 2012).

Committee Observations and Findings

Payments for Coffee Debt Waivers Kshs. 500 million were confirmed to have been processed on the basis of validation reports and the matter was resolved. After investigation, Kshs 1,474,509 .00 was noted to have been an erroneous entry. The issue is being sorted.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory therefore the matter is resolved. However, he should ensure that the erroneous entry of Kshs 1,474,509 .00 is duly corrected and revised financial statements submitted to the Auditor-General for review.

481. Outstanding Disbursement of Transfer to Other Government Units

The financial statements for the year ended 30 June 2016 reflects a balance of Kshs.6,054,325,173 as transfers to other government units. However, analysis of the financial statements of the respective agencies indicates that a sum of Kshs.166,515,098 included in the transfers balance though budgeted for was not disbursed to the five MDAs. A breakdown is shown below:-

Name of the Agency	**Amounts (Kshs.)**
Anti- Counterfeit Agency	19,750,000
Kenya Industrial Research Development Institute	16,278,165
Kenya Leather Development Council	88,000,000
Kenya Industrial Estate	25,000,000
Export Processing Zones Authority	17,486,933
Total	**166,515,098**

Some of the agencies are regulatory and have no other source of funding, and on failure by the Ministry to disburse the grants they registered operational losses for the year under review. However the Ministry has only recognized an amount of Kshs.49,246,284 as unremitted budgetary support at the close of the year resulting in an unexplained difference of Kshs. 116,268,814.

Failure to remit adequate budgetary support to agencies and in particular the regulatory ones adversely affects service delivery by such agencies.

Submission by Accounting Officer

The Accounting Officer submitted that the reconciliations were done. She noted that an attachment of the detailed disbursement schedule showing Kshs. **6,054,325,173.00** were transferred to the government agencies was submitted.

Committee Observations and Findings

The financial statements for the year ended 30 June 2016 reflects a balance of Kshs. 6,054,325,173 as transfers to other government units. However, analysis of the financial statements of the respective agencies indicates that a sum of Kshs. 166,515,098 included in the transfers balance though budgeted for was not disbursed to the five MDAs.

Committee Recommendation

(i) **Members with Concurrence from Office of Auditor General observed that the issue has been resolved since the reconciliations were done and verified against the Financial Statements of parastatals.**
(ii) **The explanation by the Accounting Officer was satisfactory.Therefore, the matter is resolved.**

482. Payment for Goods and Services Not Delivered

During the year under review, the Ministry procured and paid for several goods and services valued at Kshs.4,252,291 which were not delivered by the suppliers contrary to the Public Procurement and Assets Disposal Act, 2015. Through the Ministry, the public may have lost Kshs.4,252,291 paid to suppliers who did not deliver the goods and services contrary to the Public Procurement and Assets Disposal Act, 2015 and Public Finance Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer submitted that during the year under Review the Ministry procured and paid for several goods and services valued at **Kshs. 4,252,291.00**.

She tabled that a chart (table) and copies of S13 as evidence of Documents to show goods were delivered, received and inspected by Acceptance and Inspection Committee

Committee Observations and Findings

(i) **Members with Concurrence from Office of Auditor General observed that the issue has been resolved since the supportive documents have been provided and verified.**
(ii) **The explanation by the Accounting Officer was satisfactory.Therefore, the matter is resolved.**

483. Inaccuracies in Pending Bills

Excluded from the balance of Kshs.549,541,065 as at 30 June 2016 is a debt of Kshs.29,147,652 to Messrs. Iseme Kamau and Muema Advocates which has been outstanding since 2014/2015 and a further Kshs.48,611,450 owed by Kenya Industrial Training Institute to various creditors as at 30 June 2016. Further, included in the pending bills balance of Kshs.549,541,065 is an amount of Kshs.4,078,733 being personal claims owed to Ministry's staff for undertaking ministerial activities, which however, have not been explained. In addition, an amount of Kshs.52,330,394 is indicated as owed to MDAs under the Ministry being outstanding grants which had not been remitted at the close of the year. Ideally, these grants lapse at the end and of each financial year and the rationale of their inclusion in the pending bills balance is not explained. In absence of any reconciliation, it has not been possible to ascertain the accuracy and validity of pending bills balance of Kshs.549,541,065 outstanding as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officersubmitted that the Pending Bills of **Kshs. 29,147,652.00,** owed to Messrs. Iseme Kamau and Muema Advocates has since been transferred to East African Portland Cement Company Ltd vide letter Ref: MOI/CONF/3/12 VOL.9 (75) dated 7th June 2017.

She further submitted that the Pending bills at the Kenya Industrial Training Institute [KITI] have subsequently been consolidated in totality with the State department pending bills for onward transmission to the Pending Bills committee of the National Treasury in line with the prevailing Legislation.The meeting heard that the inclusions of an amount of **Kshs. 4,078,733.00** were personal claims owed to Ministry's Staff. They were eventually cleared.All amounts owed to MDA's were disbursed as shown in the disbursement schedule as shown in Paragraph 481 above.

Committee Observation and Findings

(i) Excluded from the balance of Kshs. 549,541,065 as at 30 June 2016 is a debt of Kshs. 29,147,652 to Messrs. Iseme Kamau and Muema Advocates which has been outstanding since 2014/2015 and a further Kshs.48,611,450 owed by Kenya Industrial Training Institute to various creditors as at 30 June 2016;

(ii) Having forwarded the pending bill of Kshs 29,147,652.00 to East African Portland Cement Company Ltd, the Ministry presumed that the same has been acknowledged and recognized in their Financial Statements; and

(iii)The Pending bills at the Kenya Industrial Training Institute [KITI] have subsequently been consolidated in totality with the State department pending bills for onward transmission to the Pending Bills committee of the National Treasury in line with the prevailing Legislation

Committee Recommendations

(i) The Accounting Officer should, within three months upon adoption of this report, finalize on the payment of the debt of Kshs. Kshs. 29,147,652 owed to Messrs. Iseme Kamau and Muema Advocates which has been outstanding since 2014/2015.

484.Non-Compliance with Public Finance Management Act, 2012 – Management Supervision and Liquidation Fund

Section 84 of the Public Finance Management Act, 2012 requires the Accounting Officer administering a national public fund to prepare and submit financial statements of the fund at the end of each fiscal period and submit these to the Auditor-General for audit. Further, Rule 18 and 49 of the Cooperatives Societies Rules, 2004 under Legal Notice No.123, established the Management and Supervision Fund and the Cooperative Liquidation Account respectively and entrusts the Commissioner for Cooperatives with their management and administration. The Ministry has not prepared and submitted for audit, separate financial statements of the Management and Supervision Fund as well as the Liquidation Account for the three financial years ended 30 June 2013 to 30 June 2016 to enable the Auditor-General provide an opinion on the Fund's operations for the period and its financial position at the close of each financial year. In the circumstances, the Ministry has breached the law.

Submission by Accounting Officer

The Accounting Officer submitted that the report was prepared and submitted to the Auditor vide our letter Ref. MOIED/1/ACCTS/FA/Vol.1/22 dated 4th September, 2017 .The report is composed of separate Financial Statements of the Management and Supervision Fund as well as the liquidation Accounts for the three financial years ended 30th June, 2014 to 30th June, 2016.

The Financial Statements of the Management and Supervision Fund and the liquidation Accounts for the three financial years are ready for submission to the Auditors.

Committee Observations and Findings

The Financial Statements of the Management and Supervision Fund and the liquidation Accounts for the three financial years are ready for submission to the Auditors.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

Other Matter

485. Budget Performance and Analysis

485.1Unreconciled Summary Statements of Comparison between the Appropriation Accounts

Review of the summary statement of appropriation for the period ended 30 June 2016 revealed several instances where performance recorded in the respective appropriation accounts did not agree with the summary statements of appropriation account, and eventually, with the statement of receipts and payments. In addition, material deviations between the budget and actual performance have also not been explained.

In absence of reconciliation of these records, the accuracy of the respective balances could not be ascertained and the financial statements may not be fairly stated. Overall budgetary absorption is 8%. This has been provided for the budget absorption anomalies which have a negative impact on service delivery and achievement of the Ministry's mandate.

Submission by Accounting Officer

The Accounting Officer admitted that the summary Statement of Appropriation for the period ended 30 June 2016, revealed several instances where performance recorded in the respective Appropriation Accounts did not agree with the summary statements of appropriation Account, and eventually, with the statement of receipts and payments. Fresh reconciliation of 2015/2016 Accounts were done afterwards and hitherto, the correct position reflects that both Recurrent and Development Appropriation Account are in agreement. She submitted that absorption of Government funding (GOK funding) was 100%.The 8% absorption level of budget in the financial year 2015/2016 relates to low absorption of Donor Funds, specifically in respect to the World Bank Loan namely, the Kenya Petroleum Technical Assistance Project (KEPTAP).The reason for low absorption of this Donor funds in the budget was as a result of the following reasons.

a) At the time of inception of this Project, there was lack of Capacity as Staff to man the project was not sufficient. There wasn't a Project Coordinator and necessary Staff to steer the project daily operations. The Ministry later hired the necessary Project Staff and was brought on board in January 2017.
b) The Budget was initially provided by the National Treasury as a one line item. This resulted to difficulties in utilization of the funds. This was however rectified in the subsequent 2016/2017 financial year by itemizing the budget for ease utilization.

Committee Observations and Findings

Summary statement of appropriation for the period ended 30 June 2016 revealed several instances where performance recorded in the respective appropriation accounts did not agree with the summary statements of appropriation account, and eventually, with the statement of receipts and payments. In addition, material deviations between the budget and actual performance was not explained. The reconciliation was subsequently done.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

486. Irregular Procurement Practices

(i) Procurement of Consultancy Services

As reported in the previous year, the Ministry had awarded consultancy services for provision of technical support to the Business Environment Delivery Unit to M/s Strathmore Business School at a cost of Kshs.5,940,000. The Ministry had invited bidders but only one application was received and considered responsive. The tender committee went ahead and awarded the tender to the only responsive bidder and in effect, used direct procurement method to procure the services. The invoice was issued before the LPO was raised. Further, whereas the contract agreement had indicated that the exercise was to be completed in three months, the service was delivered in less than a week and the consultant paid the contact sum of Kshs.5,940,000. No evidence was availed to explain why the consultant commenced work before the contract was awarded and signed or reasons for use of direct procurement method which in effect defeated fair competition and pricing of the tender award.

Submission by Accounting Officer

The Accounting Officer submitted that the Ministry started the process of procurement for the Consultancy Services for provision of technical support to the Business Environment Delivery Unit, awarded to Strathmore Business School from 20th May 2014 (***See attached matrix – Annex 1***). The Strathmore Business School had entered into a collaborative arrangement with the IBMto deliver on the assignment. The Strathmore/IBM Consortium won the contract and was awarded on 26th November 2014.

In order to meet the strict timelines under the World Bank's annual cycle for the Doing Business assessment (that starts in mid-February to mid-October), there was an understanding therefore, that the process should begin as the Ministry and the Consortia finalized the procurement process. This activity was in the Ministry's Work Plan as well as a top priority on CS's Performance Contract.

Committee Observations and Findings

The Ministry started the process of procurement for the Consultancy Services for provision of technical support to the Business Environment Delivery Unit, awarded to Strathmore Business School from 20th May 2014. The Strathmore Business School had entered into a collaborative arrangement with the IBM to deliver on the assignment. The Strathmore/IBM Consortium won the contract and was awarded on 26th November 2014.

Committee Recommendations

The explanation by the Accounting Officer was satisfactory. Therefore, the matter is resolved.

(ii) Ease of Doing Business Improvement Programme – Phase II

It was further noted that the same consultant, M/s Strathmore Business School, was awarded the contract for provision of consultancy services for Ease of Doing Business Improvement Programme – Phase II at a cost of Kshs.5,127,200. Similarly, the invoice from the consultant was raised before the two parties signed the contract. Whereas the contract had stated under the special conditions that the duration of the contract would be four (4) months from the date of the contract, the service was completed in less than three weeks casting doubt as to whether the contract was mooted earlier and the tender committee only used as a rubberstamp to ratify a consummated transaction. Further, it has not been possible to confirm whether the relevant stakeholders were consulted about the service as there is no record of their participation.

Submission by Accounting Officer

The Accounting Officer submitted that as indicated in the report, Phase II of the Consultancy Services for provision of technical support to the Business Environment Delivery Unit was also awarded to Strathmore Business School/IBM Consortia. This was done through an extension of Contract given the satisfactory delivery of milestones as spelt out in the Phase I and the long-term nature of the Assignment.Although the purchase order was issued on 9th June 2015 which was before the contract was signed, it was done in good faith to facilitate the submission of the Reforms memorandum to the World Bank before June 30th 2015.

She noted that the Ministry had been facilitating the Consultants with letters of introduction, organizing workshops and holding joint meetings with the Stakeholders. This is therefore to confirm the Consultants met the relevant stakeholders, while accompanied by Ministry officials. During these visits, the Consultants reviewed the business processes and provided advisory services to the Process Owners (Ministries, Departments and Agencies(MDAS)) MDAs responsible for the 10 indicators targeted for reforms) for the business processes to be re-engineered, remodeled and the legal/policy reform required. The reforms in the various institutions have been documented and are available in the respective Government Agencies thus conforming the implementation of the task.

Committee Observations and Findings

(i) The explanation by the Accounting Officer that Phase II of the Consultancy Services for provision of technical support to the Business Environment Delivery Unit was also awarded to Strathmore Business School/IBM Consortia and this was done through an extension of contract given the satisfactory delivery of milestones as spelt out in the Phase I and the long-term nature of the assignment was not sufficient to explain why the Local Purchase Order was issued before the signing of the Contract contrary to s.68(3) of Public procurement and Disposal Act, 2005;

(ii) The matter remains unresolved.

Committee Recommendations

(i) The Cabinet Secretary National Treasury should compel Mr. Wilson Songa to provide, within three months of adoption of this report, an explanation for the failure to provide the explanation and documents to the Auditor General for review contrary to s.68(2)(l) of the Public Procurement and Disposal Act; and

(ii) , The relevant investigative agencies shouldwithin three (3) months of adoption of this report, initiate investigations intothe apparent financial misconduct relating to making improper payment of public money belonging to the government pursuant to section 198(1)(o) of the Public Finance Management Act, 2012 and recommend appropriate action based on their findings, thereafter.

(iii) Irregular Consultancy Service Contract

As was reported in the previous year, the Ministry procured consultancy services from a consultancy firm Mckinsey & Company Inc. Africa Proprietary Limited for support of delivery of Kenya's Industrial Program. The contract was signed between the two parties on 18 November 2014 at a contract sum of Kshs.348,000,000. Clause 2 of the contract agreement under subsection 2.1 and 2.2 had indicated that the contract was to come into effect on the date the contract was signed by both parties and that the consultant would begin carrying out the services upon signing of the contract or at such other date as may be specified in the service contract.

Review of the process had revealed that the consultant raised an invoice of Kshs.69,827,963 on 11 November 2014 for Milestone 1(inception) even before the contract was signed between the two parties.

Therefore the consultant may have started work before the contract was awarded and the signing of the contract merely ratified the said contract. This contravened the Public Procurement & Disposal Act, 2005.

Under the circumstances, the propriety of the expenditure of Kshs.69,827,963 incurred on the contract could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the Ethics and Anti-Corruption Commission reviewed this case and in their response letter Ref. No.EACC.6/24 Vol.II/ (5) dated 19th December, 2017 noted "Our investigations established that there were no procurement irregularities in the tendering process and award of the tender to McKinsey & Company Limited."

Committee Observations and Findings

The explanation by the Accounting Officer was satisfactory. Therefore, the matter was resolved.

487. Irregular Reallocation of Development Grants to Recurrent Expenditure As had been reported in the previous year, the Ministry had sought and was given authority by the National Treasury to transfer an amount of Kshs.200million for the implementation of textile development through the Micro and Small Enterprise Authority (MSEA). Available records however revealed that the Ministry instead instructed MSEA to utilise Kshs.50 million to pay outstanding bills to various security firms which the Ministry had contracted to offer security services during and after the construction of the Constituency Industrial Development Centres (CIDCs) between 2012 and 2014. No evidence was availed to show whether approval of Treasury was sought and obtained to allow MSEA to divert Kshs.50 million meant for textile programme towards payment of security services. Utilization of the Funds resulted to diversion of development funds to recurrent expenditure without Treasury approval and thus contravened the Public Financial Management Act, 2012.

Submission by Accounting Officer

The Accounting Officer submitted that the Ministry through the letter dated 28th November, 2014 Ref MOI/ADM/31/1 **(Copy Attached)** instructed MSEA to Pay **Kshs. 50,000,000.00** Pending bills. This was because the bills were Mandatory obligations related to Security Services provided to Constituency Industrial Development Centers (CIDCs) and Textile Development. CIDCs are the structure's through which the MSEA textile program is implemented. The Ministry did not distinguish the payment of Security Services provided under MSEA as a recurrent expenditure as it was a component embedded in the MSEA program. It was prudent for MSEA to pay the Pending bills to avoid Court litigations and possibility of Accrued Accumulated Interest.

Committee Observations and Findings

The explanation by the Accounting Officer was satisfactory since the first payment of CIDC's Security Bills, MSEA did indeed settle Kshs 47,460,760. Therefore, the matter is resolved.

488. Apparent Loss of Cash

As was reported during the previous year, the Ministry lost Kshs.6,403,200 reported to have been paid wrongly to a merchant M/s Aquachem Technologies Limited during the 2011/2012 financial year. Although, Kshs.3,500,000 of the payment has since been recovered, a balance of Kshs.2,903,200 is still outstanding over five (5) years since payment. The Ministry does not appear keen on the recovery of the balance and has not held any one culpable for occasioning the loss of the funds. Consequently, recovery of the balance Kshs. 2,903,200 is doubtful.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry paid Kshs.6, 403,200.00, wrongly to M/s Aquachem Technologies Limited during the 2011/2012 financial year. The Ministry filed a case in the Court through the Attorney General, Ref: Civil Suit number 520 of 2013.During the time of the Audit an amount of Kshs. 3,500,000.00, had been recovered with a balance of Kshs. 2,903,200.00, which has since been recovered as shown below:

RTGS SERIAL NUMBER	**DATE**	**AMOUNT(Kshs.)**
421651	10/08/2015	500,000
384000	9/10/2015	500,000
458591	10/12/2015	2,500,000
576690	30/09/2016	900,000
576695	05/10/2016	1,000,000
576700	10/10/2016	650,403
596284	28/11/2016	352,791
TOTAL-Kshs		**6,403,194.00**

Committee Observation and Finding

The explanation by the Accounting Officer that the Ministry filed a case in the Court through the Attorney General, Ref: Civil Suit number 520 of 2013 for recovery of an amount of Kshs. 2,903,200.00 outstanding of a total of Kshs.6, 403,200.00 was convincing, However, no evidence in the form of documents was tabled before the Committee to demonstrate that the court case was underway.

Committee Recommendation

The Accounting Officer should ensure that the resultant difference of Kshs. 2,903,200.00 which was paid erroneously to M/s Aquachem Technologies Limited during the 2011/2012 financial year is fully recovered within three months of the adoption of this report.

489. Loss of CIDC Equipment and Tools at KIRDI

As was reported during the previous audit report, the Ministry lost industrial equipment through theft and pilferage. Some of the equipment was found on sale in various markets. An audit inspection at the Ministry's stores revealed continuing pilferage of the equipment and tools leaving the store almost bare with less valuable items such as fire extinguishers, and machinery with major parts missing.

Whereas several items had been issued to some of the completed Constituency Industrial Development Centre (CIDCs), a comparison of the original stock take with the situation at the time of audit revealed that equipment and tools of a value of over Kshs.60,000,000 may have been stolen. This is despite the fact that the store has always been under 24-hour surveillance and is located inside a fenced and guarded compound of the Institute and further, there are no signs that vulgarly had taken place. Although the Ministry has indicated that the matter is in Court, no meaningful efforts appear to have been taken by management to recover the stolen equipment or hold any one culpable for occasioning the losses.

Consequently, it has not been possible to confirm that the Ministry got value for money the procured tools.

Submission by Accounting Officer

The Accounting Officer submitted that as earlier Reported this Matter is pending in Court. The Applicant **M/S Eunice Miima,** was the Director of Administration in this Ministry until she retired on 30th June, 2017.

The Criminal Proceedings against her arose following a recommendation by the Director of Public Prosecution (DPP), that the Applicant alongside with Four [4] other Persons be charged for loss of Industrial Equipment through theft and pilferage belonging to this Ministry.

She was subsequently charged on 5th October, 2016 being Criminal Case No. 1523/2016 for theft of Ministry property valued at **Kshs. 63,906,392.00.** She was released on a Cash bail of **Kshs. 200,000.00.**

She later moved to Court in **Nairobi H.C.J.R Misc. Application. No. 521 of 2016 M/s Eunice Khalawali Miima vs.** Director of Public Prosecution, Chief Magistrate Milimani Law Courts, Criminal Division and Cabinet Secretary Ministry of Industry, Trade and Cooperatives seeking orders that the 3rd respondent, the Cabinet Secretary herein for Ministry of Industry, Trade and Cooperatives be restrained from taking adverse action against her pursuant to the subject criminal proceedings until further orders. Further, this application sought orders to quash the decision of the DPP to prosecute her and orders to prohibit the Cabinet Secretary, Ministry of Industry, Trade and Cooperatives from interdicting, suspending or sacking the Applicant.

The State Counsel handling the matter learnt that the judgment had been read on 11th October, 2017 in the absence of the parties in April, 2018. The Court dismissed her application to quash the criminal proceedings and allowed the DPP to proceed and prosecute the criminal matter. The matter came before court on 2nd May, 2018. The Ministry has indeed taken meaningful efforts to hold those culpable for occasioning the loss as it defended application which led to it being dismissed.

Committee Observations and Findings

(i) **The explanation of the Accounting Officer that Ms Eunice Miima, was the Director of Administration in this Ministry until she retired on 30thJune, 2017; She was charged on 5th October, 2016 being Criminal Case No. 1523/2016 for theft of Ministry property valued at Kshs. 63,906,392.00 and was released on a Cash bail of Kshs. 200,000.00 was compelling.**

(ii) The matter remains unresolved.

Committee Recommendation

There is an active criminal matter in court and the Committee's pronouncement on the matter might prejudicial.

490. Textile and Leather Working Machinery and Equipment

As previously reported, the Ministry procured textile and leather workshop machinery and equipment for Kenya Industrial Training Institute in Nakuru worth Kshs.214,899,000. Although the inspection and acceptance certificate confirmed the goods to be of the right quantity and specification, the Ministry had not availed the commissioning certificate to confirm that the machines and equipment were installed and put for use as planned.

Review of the position during the year under review indicated that the machinery and other equipment have since been installed but are yet to be commissioned for operations. In the circumstance, it has not been possible to confirm that value-for-money was obtained on expenditure of Kshs.214,899,000 incurred by the Ministry on purchase of these industrial assets.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Ministry Procured Textile and leather workshop Machinery and Equipment for Kenya Industrial Training Institute Nakuru worth **Kshs. 214,899,000.**The Ministry will hasten the process of acquiring the missing components in some of the machines to enable smooth Commissioning of the Textile and leather Machines as well as ensure that the Machine operators are properly trained on the use of the machines.

Committee Observations and Findings

The fast tracked the process of acquiring the missing components in some of the machines to enable smooth Commissioning of the textile and leather machines as well as ensure that the Machine Operators are properly trained on the use of the machines.

Committee Recommendation

The explanation by the Accounting Officer was not satisfactory. Therefore, the matter remains unresolved untill the plant is commissioned.

DONOR FUNDED PROJECTS

KENYA PETROLEUM TECHNICAL ASSISTANCE PROJECT LOAN CREDIT NO.5526-KE

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this Project.

Committee Commendation

The Committee commends the Project Team for the Kenya Petroleum Technical Assistance Project Loan Credit NO.5526-KE for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

Emphasis of Matter

491. Late Submission of the Project's Financial Statements

The Public Finance Management Act, 2012 Section 81 provide inter alia, that the Accounting Officer must prepare and submit to the Auditor-General all the financial statements for all activities carried out during any financial year three months after the closure of the financial year for audit purposes. In addition, Section 35 of Public Audit Act, 2015 provides that the Auditor-General shall conduct audit of the financial statements and give an assurance or otherwise on the propriety with which public funds have been utilized by the implementing Agencies/Ministries, in line with Schedule 2, Section II B(3) of the Financing Agreement between the Government of Kenya and the World Bank of 14 August 2014.

The above notwithstanding, the Ministry submitted the financial statements on 18 October 2016 and not 30 September 2016 as stipulated by the statutes. In the circumstances, the Ministry was in breach of the law and the agreement under which the funding was done. Late submission of the Project's financial statements and other financial statements does not only contravene the law and the financing agreement but also interferes with program for the completion of the audit by the statutory date of 31 December by the Auditor-General.

Submission by Accounting Officer

The Accounting Officer submitted that KEPTAP is a World Bank Funded Project. It has three components A, B and Component C is implemented by project implementation Teams coordinated by the Ministry. Under the Financial Agreement between the Government of Kenya and the World Bank the Ministry provided Staff to manage the project Finance, Accounting and Procurement services.

It was true that the Financial Statements for the year ended 30th June 2016, were submitted on 18th October 2016 and not 30th September 2016.This was due to the fact that the Ministry had lean staff available in the period of May-August 2016 , attributed to the mass transfers within all MDA's affecting the Finance, Audit and Accounts Departments.

In addition the Project did not yet have a full time Project Coordinator. The World Bank finally approved the appointment of a full time Project Coordinator who reported on duty in January 2017.The Project hitherto, has enough and appropriate Human Resource Base to meet deadlines as by the Financial Agreement stipulations.

Committee Observations and Findings

The Ministry submitted the financial statements on 18 October 2016 and not 30 September 2016 as stipulated by the statutes.

Committee Recommendations

Accounting officers must at all times ensure that their entities keep up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that complete financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

24.0. DEPARTMENT OF COMMERCE AND TOURISM

FINANCIAL STATEMENTS FOR VOTE 1181

Mr. Joe Okudo, the Accounting Officer for Vote 1181, Department of Commerce and Tourismappeared before the Committee on 5th January 2019 to adduce evidence on the audited Financial Statements of Vote 1181Department of Commerce and Tourismfor the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **Mr. Said Athman - Tourism Secretary;**
2. **Ms. Susan Theuri - Chief Accountant;**
3. **Ms. Margaret M. Byama - Chief Finance Officer;**
4. **Mr. Felix Omondi - Assistant Secretary;**
5. **Ms. Lilian Moraa - Senior State Counsel;**
6. **Mr. Duncan Muraguru - Internal Auditor;**
7. **Mr. Vincent Bwire - Chief Tourism Officer; and**
8. **Mr. Mulei Muia - Director of Communications**

Basis for Qualified Opinion

492. Cash and Cash Equivalents

The cash and cash equivalents' balance of Kshs.178,585,558 comprises of cash held at the Central Bank of Kenya under the recurrent, development and deposits accounts all amounting to Kshs.177,371,047 and cash in hand of Kshs.1,214,511. The reconciled closing balances as per the manual cashbook that was availed for audit review did not agree with the balances as at 30 June 2016 disclosed in the financial statements of Kshs.178,585,558.

Further, the statement of cash flows reflects an amount of Kshs.1,437,402 described as adjustments during the year but no explanation was availed on how this figure has been derived. Consequently, the propriety of the adjustment could not be ascertained.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.178,585,558 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the initial closing balances reflected in the manual cash book availed for audit review did not agree with the balances as at 30thJune disclosed in the financial statements.

The closing cash book balances have since been adjusted with amounts initially captured as payments but had not gone through the bank. The closing balances as per the manual cashbook now agree with balances as at 30th June, disclosed in the financial statements of Kshs.178,585,558.

Committee Observations and Findings

(i) The Committee observed that book balances of Ksh 178,585,558 has been adjusted. However cash flow amounting to Ksh 1,437,402 was not adequately explained. The Accounting Officer was directed to provide a response on the same on or before Friday, February 8, 2019.

(ii) The query remained unresolved.

Committee Recommendations

The Accounting Officer should provide an explanation on how cash flow amounting to Ksh 1,437,402 came about and resolve the matter with the Auditor General.

493. Use of Goods and Services

Included in use of goods and services balance of Kshs.759,877,279 is a figure of Kshs.305,225,549 being other operating expenses which in turn includes Kshs.142,291,765 paid to Grayling Communications Limited for quarterly communication consultancy services which was not supported with reports indicating the deliverables and hence casting doubts as to whether value for money was obtained in this transaction.

Further, the Department made payments while procuring goods and services totaling Kshs.4,842,551 on various sub-items under uses of goods and services. Examination of payment vouchers indicated that no electronic tax register receipts were attached on payment documents in contravention of the Value Added Tax Act.

It had, therefore, not been possible to ascertain the propriety of the above expenditure amounting to Kshs.147,134,316 or whether public resources were utilized for the intended purposes.

Submission by Accounting Officer

The Accounting Officer stated that it was true that there was an amount of Kshs.142,291,765 paid to Graylin Communications Ltd for quarterly communication consultancy services.

The payment voucher, contract agreement between the ministry and Graylin Communications Ltd and some progress reports are hereby attached. The contract details the deliverables and timelines to be met by Graylin Communications Ltd.

It was also true that payments totaling to Kshs.4,842,551 on various sub-items under use of goods and services did not have Electronic Tax Register (ETR) receipts attached to them. The ministry has already instructed all those charged with the responsibility of procuring goods and services to ensure that all procurement regulations are followed.

SUBMISSION BY OTHER WITNESSES

Dr. Ibrahim Mohamed the former Accounting Officer State Department of Tourism appeared before the Committee and submitted as follow:

a) The Tourism sector was facing many challenges key among them the Terrorism and rise of Ebola case in West Africa.

b) All tourism stake holders met and resolved on need to hire a Public Relation firm that would negative the effect occasioned by the above on Tourism
c) Since it was a sensitive matter and the Ministry did not want to send a wrong message to terrorist groups, the State Depart did not advertise the tender
d) Twenty firms bided, evaluated both financials and technically and one firm worn the tender
e) Value for money was achieved since tourism earnings increased by 200m

Committee Observations and Findings

(i) The Committee observed that the explanations given by the accounting officer were unsatisfactory in so far as they did not demonstrate that value for money was obtained from the contract.

(ii) The Committee marked the matter as unresolved.

Committee Recommendation

The Accounting Officer should,within three (3) months of adoption of this report, present to the National Assembly a simple and clear report on the value for money arising from this contract for further action.

494. Unpaid Rent to Tourism Finance Corporation

The Tourism Finance Corporation financial records indicate that the Department of Tourism owes the Corporation Kshs.14,988,786.00 as at 30thJune 2016 in respect of lease rentals for Utalii House office space. Although the amount has since been cleared after the year end, it was noted that it had not been captured as a pending bill as at 30 June 2016. Further, a review of the utilization of the leased office space at Utalii House revealed that there were unused offices including the office of the former Minister of Tourism yet Tourism Finance Corporation continues to charge rent charges for the space hence the amount spent for the unused space does not constitute proper charge to public funds.

Submission by Accounting Officer

The Accounting Officer stated that Tourism Finance Corporation records indicate that the Department of Tourism owed the corporation Kshs.14,988,786.00 as at 30th June, 2016 in respect of lease rentals for Utalii House office space.

It was true that this amount had not been captured as pending bill as at 30th June, 2016. The ministry was notified of the existence of this debt long after the closure or the Financial Year and the debt consisted of arrears of car parking space over a period of time. The ministry settled the debt vide payment voucher number 001901 of 6.4.2017 amounting to Kshs.22,800,960.00 which included other amounts accumulated as at that time.

The offices of the former Minister of Tourism were occupied by some of the East African Legislative Assembly members who were affiliated to the Ministry at that time. Further the Lease agreement between Tourism Finance Corporation and The Ministry of Tourism is for 5years from 1st August 2014 to 30th September 2019.

495. Pending Bills

Note 13.1 and 13.2 to the financial statements indicates that bills totaling Kshs.249,671,744 were not settled during the year 2015/2016 but were instead carried forward to 2016/2017. Failure to pay bills in the respective year distorts the financial statements for the year and adversely affects provision for subsequent years. Had the bills been paid and the expenditure charged to the account for 2015/2016 the statement of receipts and payments for the year would have reflected an excess vote of Kshs.119,935,518 instead of the surplus of Kshs.129,736,226 now reflected.

Submission by Accounting Officer

It was true that bills totaling Ksh.249,671,744 were not settled during the year 2015/2016 and were carried forward to 2016/2017.

The IFMIS procurement module was closed early before some of the bills could be captured. Further, there was an exchequer under issue totaling to Ksh.675,890,811 that year. Thus there would have been no excess vote if the bills were charged to the year 2015/2016.

Committee Observations and Findings

(i) The explanation by the Accounting Officer was sufficient because it clarified why payments amounting to Kshs.22,800,960.00 were made.

(ii) The matter was marked as resolved.

Committee Recommendations

Accounting Officers should endeavor to operate, at all times, within the voted provisions to avoid excess vote. In addition, pending bills should form first charge in the subsequent year pursuant to PFM Regulations.

Emphasis of Matter

496. Budget Performance and Analysis

During the year under review, the following expense items were noted to have been underspent and hence were not absorbed as planned;

Item	**Budget Kshs**	**Actual Expense** Kshs	**Under-Expenditure** Kshs	**% Variance**
Other operating expenses	709,269,067	305,225,549	404,043,518	57%
Office and general supplies and services	25,069,325	15,006,152	10,063,173	41%
Routine maintenance - other assets	135,710,612	41,564,729	94,145,883	70%

Printing, advertising, information supplies and services	8,052,944	5,189,106	2,863,838	35.6%
Training expenses	16,121,619	12,647,396	3,474,223	22%
Fuel, oil & lubricants	26,049,374	18,363,285	7,686,089	30%

Failure to fully utilize the budgeted provisions is likely to lead to negative impact on the service delivery and achievement of the overall objectives of the Department.

Submission by Accounting Officer

The Accounting Officer stated that it was true that some expenditure items had under-absorption of budget above 10% as stipulated under the Public Finance Management Act.

The reason for under-absorption was due to Pending bills that were carried forward to the following year as they were not funded by the exchequer in 2015/2016 F/Y.

Committee Observations and Findings

(i) The Committee was satisfied with the explanation by the Accounting Officer.

(ii) The matter was marked as resolved.

Committee Recommendations

(i) Accounting Officers should fast track procurement of goods and services budgeted for the department within the financial year in order to avoid any under expenditures.

(ii) Accounting Officers should ensure that all pending bills form a first charge during the subsequent financial year.

25.0. DEPARTMENT OF EAST AFRICAN AFFAIRS

FINANCIAL STATEMENTS FOR VOTE 1182

Dr. Sussan Koech, the Accounting Officer for Vote 1182, State Departments of East African Affairs appeared before the Committee on 25th February 2019 to adduce evidence on the audited Financial Statements of the StateDepartment of East African Affairsfor the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. She was accompanied by the following Officials:

1. **Mr. Philip M. Gathuya - Chief Finance Officer;**
2. **Mr. Justus Kirimi - Head of Procurement;**
3. **Mr. Justine Nelima - Director of Administration;**
4. **Mrs. Maureen Oganga - Assistant Accountant General;**
5. **Mr. Nicholas Ndongi - Assistant Accountant General; and**
6. **Ms. Hellen Chebet, Personal Assistant to PS**

Basis for Qualified Opinion

497. Unsupported Development Expenditure

In the previous year, the Department recognized revenue of Kshs.54,790,890 from Trade Mark East Africa (TMEA) and expensed it off without adequate supporting documentation in contravention of Section 68 2(a) of the Public Finance ManagementAct, 2012. Similarly, during the year under review, the Department further recognized revenue of Kshs.26,238,158 from the same institution and expensed the entire amount without accompanying supporting documentation.

The Department is therefore in breach of the Public Finance Management Act, 2012 and consequently, the propriety of expenditure totalling Kshs.26,238,158 expensed during the year under review could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that an expenditure of Kshs. 26,238,158.40 funded by TMEA was reported without adequate support documentation at the time of audit.

The Department has since compiled and availed the following documents (payment vouchers, purchase invoices, invoices, journal vouchers and statement of accounts) for Financial Year 2014/2015 for expenditure for Kshs 54,790,890 for verification to Auditor General.

These funds were Appropriation in Aid expensed by TMEA in support of the Ministry's budgetary provision.

The Department has also provided supporting documents for kshs.26, 238,158.40 for financial year 2015/2016 to Auditor General for verification. *(Files)*

Committee Observations and Findings

(i) **The Department recognized revenue of Kshs.54,790,890 from Trade Mark East Africa (TMEA) and expensed it off without adequate supporting documentation in contravention of Section 68 2(a) of the Public Finance Management Act, 2012.**

(ii) **The Committee noted that the Accounting Officer reported that the County paid the money in the financial year 2018/2019.**

Committee Recommendations

The Accounting Officer should at all times ensure that AIE holders submit supporting documentary evidence within the stipulated time and adhere to responsibilities of AIE holders as contained in the PFM (National Government) Regulations 2015.

498. Arrears of Subscriptions to East African Community

Article 132(1) of the East African Community (EAC) Treaty-1999, stipulates that there shall be a budget for the organs and institutions of the Community, except the self-accounting institutions. Article 132 (4) provides that the budget of the Community shall be funded by equal contributions by the partner states and receipts from regional and international donations and any other sources as may be determined by the Council. However, documentation availed for audit revealed that the Country through the State Department of East African Affairs has not consistently paid its contributions resulting in arrears of Kshs.75,279,970 (USD.744,609) as at 30 June 2016.

Failure to honour contributions to the East African Community Treaty impacted negatively on the financial affairs of the East Africa Community and the integration agenda.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the East African Community Treaty 1999, chapter 28 Article 132(1) stipulates that there shall be a budget for the organs and institutions of the community, save for the self-accounting institutions, and article 132(4) provides that the budget of the community shall be funded by equal contributions by the partner states. It was true that the country, through the state department of EAC Integration has not consistently paid its contributions totaling in arrears of (USD 744,609), approximately Kshs.75, 279,969.90 as at 30th June 2016.

The country's contribution has been in historical arrears since 1980 and historical arrears stood at USD 6,166,761 as at 30th June, 2001.These historical arrears relate only to Inter University Council of East Africa (IUCEA).This arose due to no frame work to support IUCEA. These funds were initially budgeted under the ministry of Education. The country has since then paid USD 4,981,815 and reduced outstanding arrears to USD 1,243,103 as at 30TH June, 2015.The Accounting officer has continued to engage the National Treasury for additional funding to clear historical outstanding arrears of USD 1,243,103 which now stands at USD 744,609 as at 30th June, 2016 and continued paying its current obligations to the EAC organs and institutions. The role of subscriptions to International Organization has been taken to the National Treasury and the outstanding arrears have been cleared in the financial year 2018/19.

Committee Observations and Findings

(i) **The submission by the Accounting Officer that the historical arrears relate to Inter University Council of East Africa (IUCEA), this arose due to no frame work to support IUCEA and the Accounting officer has continued to engage the National Treasury for additional funding to clear historical outstanding arrears of USD 1,243,103 which now stands at USD 744,609 as at 30th June, 2016 was persuasive.**

(ii) **The role of subscriptions to International Organization has been taken to the National Treasury and the outstanding arrears have been cleared in the financial year 2018/19.**

Committee Recommendations

Within three months of the adoption of this Act, the Accounting officer and the National Treasury must ensure that additional funding to clear historical outstanding arrears of USD 1,243,103 which now stands at USD 744,609 as at 30th June, 2016 is secured and processed as anticipated under Article 132(4) of the East African Community Treaty, 1999.

499. Pending Bills

During the year under review, the Department made payments of bills totalling Kshs.3,719,204 relating to 2014/2015 and prior years but which had not been disclosed as pending bills in the year or supported with verifiable documents contrary to Section 72 (1) of the Public Finance Management Act, 2012. Failure to pay bills in the year they relate to distorts the financial statements for the year and adversely affects provisions for the subsequent years they have to be charged. Consequently, the authenticity and propriety of the payments could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the Department made payments of bills totaling to Kshs. 3,719,204 relating 2014/2015 and prior years but which had not been disclosed as pending bills in the year or supported with verifiable documents.

The Department paid pending bills totaling to Kshs. 3,719,204 brought forward from financial years 2013/14 and 2014/15 which were not included in the list of Pending Bills. These invoices had not been recognized at the time of compilation of the list of pending bills at the close of the respective Financial Years, but the invoices were submitted at the beginning of the Financial Year 2015/16. The Department reviewed and updated the list of Pending Bills, and paid them as a first charge in 2015/16 since services had been rendered to comply with the financial regulations.The Department availed the relevant documentation for audit verification.

Committee Observations and Findings

- **(i) The Department made payments of bills totaling to Kshs. 3,719,204 relating 2014/2015 and prior years but which had not been disclosed as pending bills in the year or supported with verifiable documents.**
- **(ii) The Department paid pending bills totaling to Kshs. 3,719,204 brought forward from financial years 2013/14 and 2014/15 which were not included in the list of Pending Bills.**
- **(iii) The invoices had not been recognized at the time of compilation of the list of pending bills at the close of the respective Financial Years, the invoices were submitted at the beginning of the Financial Year 2015/16 and the bills paid as a first charge**
- **(iv) The Committee marked the matter as resolved.**

Other Matter

500. Fixed Assets Register and Summary

The management of the Department did not provide an assets register for audit verification contrary to the Public Finance Management Act, 2012. Further, contrary to International Public Sector Accounting Standards, the financial statements do not include a summary of fixed assets but instead show a comparative extract of the financial statements which, however, does not disclose the nature, value and status of the assets owned by the Department as at 30 June 2016.

In the circumstances, it has not been possible to verify and confirm the assets owned by the Department in the year under review.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Department did not have a complete asset register for audit verification the year under review, it was also true that the Financial Statements do not include a summary of fixed assets, but instead show a comparative extract of the financial statements which however, does not disclose the nature, value and status of the assets owned by the Department as at 30th June 2016.

The Department reported a summary of fixed assets categorized into different asset class, reflecting the historical costs, and any additions or disposals during the year in compliance with Public Sector Accountants Board (PSASB) framework.

The Department has provided a Fixed Assets Register which discloses the nature, value and status of the assets owned by the Department for audit verification. In addition the Department has put in place a committee/team that maintains and update data of assets owned by the Department.

Committee Observations and Findings

The submission by the Accounting Officer that Asset Registers are available for verification was not satisfactory. If a complete asset register was available as was purported by the Accounting Officer, it should have been availed to the Auditor-General at the time of audit

Committee Recommendations

The Accounting Officer should ensure that a complete fixed asset register is maintained pursuant to Regulation 143(1) of the PFM (National Government) Regulations 2015. Further, the register should be availed to the Auditor-General for future audit.

26.0. MINISTRY OF MINING

FINANCIAL STATEMENTS FOR VOTE 1191

Mr. John Morangi Omenge, the Accounting Officer for Vote 1191, Ministry of Mining appeared before the Committee on 5th January 2019 to adduce evidence on the audited Financial Statements of Vote 1191Ministry of Miningfor the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied bythe following Officials:

1. **Mr. Fredric Ndambala - S.A Mining;**
2. **Mr. Bernard K. Orina - Director Human Resource Management;**
3. **Mr. Charles W. Nyaga - A.A.G;**
4. **Mr. Kenneth Mwangi - SDD/SCMS;**
5. **Ms. Pauline Luganje - Chief Finance Officer;**
6. **Mr. Peter Messoh – Finance Officer;**
7. **Mr. Apollo Muchilwa - Senior Assistant Director ICT;**
8. **Ms. Joan Wambua – Ag. Director Administration;**
9. **Ms. Grace Owiti - Senior Public Works Officer;**
10. **Ms. Rosemary Mwambui -Senior Assistant Director Youth;**
11. **Mr. Ben Abenga - Senior Accountant;**
12. **Ms. Grace Wasike - Deputy Director Gender;**
13. **Mr. Ngugi Collins - Chief Supt. Inspector of Mines; and**
14. **Mr. Josphat Wanjogu - Principal Supt. Geologist**

Basis for Qualified Opinion

501. Unsupported Donor Funded Expenditure

The statement of receipts and payments reflects proceeds from domestic and foreign grants amounting to Kshs.43,673,907, as disclosed under Note 3 to the financial statements. This amount is in respect of United Nations Development Programme (UNDP) funded project pass-through income, for expenditure incurred and settled directly by the donor on behalf of the Ministry. However, the expenditure was not supported by the requisite documents namely payment vouchers, expenditure returns as well as schedules with respective reporting currency conversion rates. In the absence of documentary evidence in support of the expenditure, it has not been possible to confirm the purpose and validity of the grants totaling Kshs.43,673,907.

Submission by Accounting Officer

The Accounting Officer stated that it was true that Statement of Receipts and payments reflected proceeds from domestic and foreign grants amounting to Kshs.43,673,907.00 as disclosed under Note 3 to the Financial Statements.

The Extractive Industry for Sustainable Development, a project in the Ministry of Mining is funded by UNDP under the Extractive Industries for Sustainable Development Kenya 2013-2015 and the United Nations Development Program UNDP agreement. Funds to support the various activities of the project are channeled directly through income (A.I.A) as foreign grant. The Ministry of Mining budgeted for the grants in the Development Vote in the year under review.

The Expenditures and Payments were incurred and settled directly by the donor on behalf of the Ministry of Mining. At the end of the year the donor was requested to provide the Ministry with relevant documents supporting the expenditure. Though they were not provided at the time of the audit, the following have now been provided namely, Authenticated Combined Expenditure Returns, (report), detailed Schedules of Expenditure Report in US Dollars, Exchange rates used beinggiven as a note at the end of this schedule.

The Accounting Officer stated that it had become difficult for us to get payment vouchers from the donors. However, UNDP is open for any discussions with the Office of the Auditor General.

Committee Observations and Findings

(i) The Committee observed that documents on tax remittance were not submitted to the Auditor-General for verification.
(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The Accounting officer should,within three (3) months of adoption of this report, ensure that the documents have been availed to the Auditor-General for review.

502. Compensation of Employees

The statement of receipts and payments reflects payments amounting to Kshs.370,792,733 on account of compensation of employees, as disclosed under Note 5 to the financial statements. Included in this figure is Kshs.19,451,168 which is unsupported and not traceable to both the Integrated Payroll and Personnel Database (IPPD) and payment vouchers for temporary and casual employees. Under the circumstances, it has not been possible to confirm the propriety of employees costs of Kshs.19,451,168.

Submission by Accounting Officer

The Accounting Officer stated that the amount of Kshs.19,451,168.00 was part of the Employees Compensation which had not been accounted for in the year in question. The amount was traced and is supported by the following payment vouchers.

i. P.V No. STD 004004 (Bond Autos) Kshs.6,950,296.00 Purchase of Cabinet Secretary's vehicle (Hon. Dan Kazungu). The taxable allowance to purchase a motor vehicle was an entitlement to Cabinet Secretaries.
ii. P.V. No. STD 003999 various payees

    Kshs.3,396,448.65 commutation of leave for Ministry staff who did not utilize their annual leave due to the exigencies of duty.Authority to commute leave for cash was approved and payment done as follows:

Gross	- Kshs.3,396,448.65
PAYE - Kshs.	509,467.30
Amount payable	- Kshs.2,886,981.35

iii. P.V. No. STD 001876 of Kshs.4,070,894.85

Payment of Service Gratuity for the former Principal Secretary

(Mr. Patrick O. Omutia).

This is in accordance to the Human Resource Procedures Manual

The payment was	- Kshs. 4,070,894.85
Less PAYE	- Kshs. 1,221,268.50
Amount Payable	- Kshs. 2,849,626.35

i. P.V. No. STD 001877 of Kshs.5,033,528.50

Payment of three (3) months basic salary in lieu of notice for the former Principal Secretary (Mr. Patrick O. Omutia).

On termination of the Contract of Appointment, an officer is entitled to three (3) months Gross Salary in lieu of notice.

The payment done was as follows:

Gross	- Kshs. 5,033,528.50
Less PAYE	- Kshs. 1,510,058.55
Less Overpayment	- Kshs. 745,715.10
Net paid	**- Kshs. 2,777,754.85**

Committee Observations and Findings

(i) The Committee observed that the amount was traced and is supported by payment vouchers which were submitted to the Auditor General.

(ii) The Committee marked the matter as resolved.

503. Completeness of Mining Revenue

The financial statements of the Ministry reflect other receipts amounting to Kshs.1,139,124,444 for the year ended 30 June 2016 as disclosed in Note 4 (2014/2015 Kshs.1,319,889,112) reflecting a 13.7% decline from the previous year. The following anomalies were noted over mining revenue collections:

503.1 Levy on Cement Minerals

Included in other receipts figure of Kshs.1,139,124,444 is Kshs.613,312,355 on account of cement levy. Records in support of the levy receipts indicate no evidence of the Ministry having verified the reported production by the various cement companies. Consequently, the Ministry relied solely on the self-declared production figures of the individual cement companies, to compute the cement levy. Although, according to management, the Ministry has entered into a Memorandum of Understanding (MOU) with Kenya Revenue Authority (KRA) to collect the levy on its behalf, the memorandum is yet to be actualized. Under the circumstances, it has not been possible to confirm the accuracy and completeness of the reported cement levy of Kshs.613,312,355.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Ministry has been receiving self-declared remittance of Cement Levy from the Cement Manufacturers. This was due to shortage of staff, however to verify those declaration a task force was formed and members appointed, vide letter Ref: MOM/SP.AUD.AUD/09/ (32) dated 17th April 2018, with the objective of ascertaining the remittance.

The Task force visited the Cement Manufacturing Companies they verified the production and Sales Reports and the Taskforce found out that there were no discrepancies from the self-declared amount and the actual reviewed Sales Levy.

Committee Observations and Findings

(i) The committee observed that the figure of Kshs.1,139,124,444 included Kshs.613,312,355 on account of cement levy.
(ii) There was no evidence from the Ministry to verify the reported production by the various cement companies.
(iii) The Ministry relied solely on the self-declared production figures of the individual cement companies, to compute the cement levy.
(iv) According to management, the Ministry entered into a Memorandum of Understanding (MOU) with Kenya Revenue Authority (KRA) to collect the levy on its behalf, the memorandum was yet to be actualized.

Committee Recommendations

The Accounting Officer should ensure that the taskforce which was formed vide letter Ref: MOM/SP.AUD.AUD/09/ (32) dated 17thApril, 2018, with the objective of ascertaining the remittances is adequately facilitated to undertake its mandate.

503.2 Magadi Soda Royalties

Included in the other receipts figure of Kshs.1,139,124,444 are royalty receipts from Magadi Soda products amounting to Kshs.86,764,751. Records in support of the royalty receipts indicate no evidence of the Ministry having verified the production quantities reported by the Company. Consequently, the Ministry relied solely on the Company self-declared production quantities to compute the royalties. Under the circumstance, it has not been possible to confirm the accuracy and completeness of the royalty receipts of Kshs.86,764,751.

Submission by Accounting Officers

The Accounting Officer stated that it was true that the Ministry has been receiving self-declared remittance of Royalties from Magadi soda, however to verify those declaration a task force was formed and members appointed, vide letter Ref: MOM/SP.AUD.AUD/09/(32) dated 17th April 2018, with the objective of ascertaining the remittance.

The Task force visited Magadi Soda and verified the production and sales reports and found out there was no material difference on the self-declared Royalties and the actual reviewed Royalties from Sales Report.

The receipts of Kshs.86,764,751.00 were Royalties in respect of financial year 2014/2015 which were paid in the course of financial 2015/2016.

Magadi Soda Summary of Expected and paid up Royalties

Financial Year	Expected Royalties	Received royalties	Date	Remarks
2013/2014	@ 2% Kshs. 113,485,000.00	Kshs. 12,672,188.50 Kshs.101,172,079.00 Total 114,644,267.50	28/01/2015 5/06/2015	Excess Payment of Kshs. 1,159,267.50
2014/2015	@ 2% Kshs. 86,764,000.00	Kshs. 78,670,648.00 Kshs. 8,094,103.00 Kshs. 86,764,751.00	1/09/2015	

Committee Observations and Findings

(i) The committee observed that the figure of Kshs.1,139,124,444 included royalty receipts from Magadi Soda products amounting to Kshs.86,764,751.
(ii) There was no evidence that the Ministry had verified the production quantities reported by the Company.
(iii)The Ministry relied solely on the Company self-declared production quantities to compute the royalties.

Committee Recommendations

The Accounting Officer should ensure that the taskforce which was formed vide letter Ref: MOM/SP.AUD.AUD/09/ (32) dated 17thApril, 2018, with the objective of ascertaining the remittances is adequately facilitated to execute its mandate.

503.3 Royalties from Base Titanium Limited

Included in other receipts figure of Kshs.1,139,124,444 are royalties from Base Titanium Limited amounting to Kshs.294,694,680 on account of titanium exports. Records in support of the royalty receipts indicate no evidence of the Ministry having verified the production quantities and prices reported by the Company. Consequently, the Ministry relied solely on the Company’s self-declared production quantities and self-determined prices to compute the royalties. Under the circumstances, it has not been possible to confirm the accuracy and completeness of the royalty receipts of Kshs.294,694,680 for the year ended 30 June 2016.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Ministry has been receiving self-declared remittance of Royalties from the company, however to verify these declaration the Ministry invoked Annex ‘D’ of the Special Mining Lease No. 23 which states that “The Commissioner may at his/her discretion and at the cost of the Lessee order that the pricing of the products sold be verified by an independent audit to be undertaken to verify the declarations on quantities, price and Royalty Payments.

PWC Kenya undertook the audit and their report stated that there were no material discrepancies between the declarations and findings of the audit.This was also confirmed by a taskforce from the

Ministry. Further an office has been opened at Likoni Shipping Point to be verifying the Company's Exports.

Committee Observations and Findings

(i) The Ministry received Titanium royalties of Kshs.294, 694,680 from Base Titanium Limited on account of titanium exports.

(ii) There was no evidence of the Ministry having verified the production quantities and prices reported by the Company.

(iii) PWC Kenya compiled an audit report ascertaining that there were no material discrepancies between the self-declarations and findings of the audit

Committee Recommendations

The Cabinet Secretary should within three (3) months after adoption of this report embark on development of policy guidelines on payments of royalties. The guidelines should address sales reporting and royalty remittances on various minerals, auditing of sales to ensure mining companies pay the royalties that is due to the government.

504. Verification and Ownership of Motor Vehicles

Included in the non-current assets figure of Kshs.355,047,038 reflected in the summary of fixed assets register, under Annex 1 to the financial statements, is the historical cost of transport equipment of Kshs.5,245,495. Included in the transport equipment list is a motor vehicle, registration number GKB 433D, whose physical existence could not be verified as it was not in use at the Ministry. Also included are the values of one vehicle registration numbers GKB 743J and a drilling rig, whose ownership could not be confirmed for lack of log books. Consequently, it was not possible to confirm whether fixed assets balance of Kshs.355,047,038 is fairly stated.

Submission by Accounting Officer

The Accounting Officer stated that the GKB 743J Mercedes Benz belongs to the Ministry of Petroleum and Mining and is currently attached to the Cabinet Secretary's office and is being used by the Chief Administrative Secretary. The vehicle is in good mechanical condition.

GKB 433D was assigned to the former Cabinet Secretary, Hon. Najee Balala while in the then Ministry of Mining. The vehicle has been officially transferred to Ministry of Tourism vide letter Ref: DNR/TR/1dated 18th September, 2018.

The Crawler Mounted Core Drilling Rig was requisitioned and procured under Ministerial Tender No. MOM/EQ/2013-2014. It was in good working condition and currently stationed at Madini House in Industrial area. The Crawler Core Drilling Rig came mounted on lorry (Scania) which was registered as GKB 686B however it was inadvertently not registered at the time.

The Ministry has commenced the process of registering the Crawler Drilling Rig with a letter Ref: MOM/CR/4/1/ dated 24th September, 2018 written to National Transport and Safety Authority.

Committee Observations and Findings

(i) The GKB 743J Mercedes Benz belongs to the Ministry of Petroleum and Mining and is currently attached to the Cabinet Secretary's office and is being used by the Chief Administrative Secretary.

(ii) **The vehicle has been officially transferred to Ministry of Tourism vide letter Ref: DNR/TR/1dated 18th September, 2018.**
(iii)**The Committee marked the matter as resolved.**

505. Outstanding Temporary Imprests

The statement of assets as at 30 June 2016 reflects accounts receivables' balance of Kshs.8,255,258 which includes outstanding temporary imprests of Kshs.3,861,134 as disclosed in Note 12 to the financial statements. These imprests ought to have been surrendered or accounted for on or before 30 June 2016. Review of the position as at 31 March 2017 revealed that out of the figure of Kshs.3,861,134, imprests totaling Kshs.2,685,662 had been surrendered or accounted for, leaving a balance of Kshs.1,175,472 outstanding. Consequently, the propriety of imprests totaling Kshs.1,175,472 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Statement of assets as at 30th June, 2016 reflects accounts receivables' balance of Kshs.8,255,258.00 which includes outstanding temporary imprests of Kshs.3,861,134.00. However, the up to-date status is that out of the Kshs.1, 175,472.00 outstanding imprests, Kshs.1,021,072.00 has been surrendered and recovered from the officers' salaries.The remaining Kshs.154,400.00 is in respect of officers who were transferred to other ministries a letters were written to the respective ministries in regard to the samerequesting for recoveries from officers' salaries.The salaries of the officers was attached, and recoveries are ongoing. The outstanding balance as at 31st January 2019 is **Kshs.12,007.90**, which will be cleared by the end of the month of February 2019.

Committee Observations and Findings

(i) **There was an outstanding imprest of Kshs.3,861,134.00 held by various officers. Out of the Kshs.1,175,472.00 outstanding imprests, Kshs.1,021,072.00 has been recovered from the officers' salaries.**
(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

(i) **The Accounting Officer must ensure that the recoevery of the outsatnding imprest completed within one month upon adoption of this report.**
(ii) **Accounting Officers must, at all times, ensure that the rules and guidelines governing the management of imprest are complied with.**

506. Bank Reconciliation Statement for Development Cashbook

The statement of assets as at 30 June 2016 reflects cash and cash equivalents' balance of Kshs.24,629,617. However, review of the bank reconciliation statement for the development vote as at 30 June 2016 revealed that the following reconciling items had not been cleared from the bank reconciliation statement as at 31 December 2016:

Reconciling Item	Balance Outstanding as at 30/06/2016 Kshs	Balance Outstanding as at 31/12/2016 Kshs
Payments in cashbook not in bank statement	85,052,731	5,970,438
Payments in bank statement not in cashbook	805,450	805,450
Receipts in cashbook not in bank statement	52,142,800	52,142,800

Consequently, the validity and accuracy of the cash and cash equivalents' balance of Kshs.24,629.00 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the amount of Kshs.85,052,731.00, reflects payments in Cash Book not in Bank Statement that were processed on 30th June 2016 whose Exchequer was received in early July 2016. It was not possible to process invoices on 30th June 2016 and present them to the bank for payment on the same day. The above amount was therefore cleared in the following month i.e. July 2016.

Receipts in Cash Book not in Bank Statement of Kshs.52,142,800.00 is the Exchequer mentioned in the above paragraph but was captured in the books of the ending year to enable proper accounting for the year. This was done because Accounts are done on Accrual Basis. The figure ought to have been cleared in the Bank Reconciliation of July 2016 but an omission by the one charged with the work made a delay up to December 2016. Payments in Bank Statement not in Cash Book amounting to Kshs. 805,450.00 are invoices that are processed and presented to the Bank for payment before capturing the transaction in our Cash Book. This is an omission that ought to be discovered immediately and adjustment be done accordingly.

The Accounting Officer stated that the items of Bank Reconciliation are of continuous nature and are cleared and or adjusted on a daily basis. However due to oversight some items may remain unadjusted for quite some time. Nevertheless, I am happy to report that we have been able to clean our Books accordingly as from November 2017 and we have maintained the status up to June 2018.

Committee Observations and Findings

(i) The committee observed that an amount of Kshs.52,142,800.00 was captured in the books of the ending year to enable proper accounting for the year. It was not possible to process invoices on 30th June 2016 and present them to the bank for payment on the same day. The above amount was therefore cleared in the following month i.e. July 2016.

(ii) The figure ought to have been cleared in the Bank Reconciliation of July 2016 but an omission by the one charged with the work made a delay up to December 2016.

Committee Recommendations

Accounting officers must at all times ensure that fully reconciled financial statements are submitted to the Auditor-General pursuant to section 68 (2) (k) of the PFM Act, 2012 and within three months as provided for under Article 229 (4) of the Constitution of Kenya, 2010.

507. Unresolved Prior Year Audit Matters

Included in Part XIII under Note 15 to the financial statements is a progress report on follow-up of prior year audit recommendations. The report indicates that out of the nine (9) observations, only one had been resolved as at 30 June 2016. The unresolved audit matters are listed below:

a. Un-authorized Expenditure on Surplus Appropriation-in-Aid (A.I.A)

The statement of receipts and payment for the year ended 30 June 2015 reflected other receipts totaling Kshs.1,319,889,112. Included in these, under Note 3 to the financial statements are Appropriations-in-Aid (A.I.A) which reflected a balance of Kshs.34,916,416.45 against an approved budget of Kshs.14,000,000 resulting in an excess / surplus in A.I.A of Kshs.20,916,416.45 which procedurally, the Ministry should have surrendered to the exchequer account. However, the surplus A.I.A had been expended during the year ended 30 June 2015 and remained un-surrendered as at 30 June 2016.

Submission by Accounting Officer

TheAccounting Officer stated that the Ministry was to receive Kshs.1,903,711,140.00 as Exchequer from the National Treasury but received Kshs.1,555,585,00.00 leaving an outstanding balance of Kshs. 348,126,140.00 as Exchequer non release.

It was expected and budgeted at draft estimates that Kshs.14,000,000 will be raised from Laboratory fees, Inspection fees, Explosive Licensing, sale of Publications and Canteen charges but Kshs.34,916,416 was raised from the same.

The excess A.I.A amounting to Kshs.20,916,416 was expected to meet the resultant expenditures for the period ending 30th June 2015 to meet the Exchequer deficit of Kshs.348,126,140 and hence the A.I.A was not surrendered to the Exchequer account. This was done in anticipation that the Ministry will receive its total Exchequer releases and the same was discussed at the Estimates Working Group (EWG) at the Treasury during the Supplementary Estimates of the Financial Year 2014/15 deliberations.

Committee Observations and Findings

The committtee observed that this matter was covered in the report of the FY 2014/2015.

b. Revenue

i. Royalties received from Carbacid Company Ltd – Carbon Dioxide

Other receipts balance of Kshs.1,319,889,112 included royalties of Kshs.1,008,093 received from Carbacid Company Limited on carbon dioxide. Clause 10 of the mining license requires the company to file progress reports and sales return which forms the basis for royalty payments. However, the company has to the date of this report not complied with the provision. In the circumstances, it has not been possible to confirm the accuracy and completeness of the royalties received from Carbacid Company Ltd.

Submission by Accounting Officer

The Accounting Officer stated that the Ministry has not been receiving returns on production and sales from Carbacid Company Ltd. Through a letter Ref: L/57/I/168 OF 11th May 2017, the company was requested to submit the returns and pay up the corresponding arrears in Royalty. To verify the completeness of the returns a task force was formed and members appointed, vide letter ref: MOM/SP.AUD.AUD/09/ (32) dated 17th April, 2018, with the objective of ascertaining the remittances.

The Company submitted production and sales returns vide their letter dated 10th November 2017, covering returns for period August 2013 to June 2017, and paid Royalty arrears for the period June 2013 – December 2016 amounting to Kshs.46, 611,674.20.

Committee Observations and Findings

The committtee observed that this matter was covered in the report of the FY 2014/2015.

ii. Royalties Received from Base Titanium Limited

Other receipts included royalties received from Base Titanium Limited amounting to Kshs.260,706,550 on account of titanium exports. These royalties were based on self-declared export quantities for which the Commissioner of Mines and Geology issued export permits. As pointed out in my report, there was no evidence of subsequent verification of the actual exports vis-à-vis declared quantities to validate their accuracy. Although, according to the Management, verification was done at the point of loading the ship in Mombasa, analysis of quarterly returns revealed discrepancies arising from price adjustments. Under the circumstances, it was not possible to confirm the validity and completeness of the royalties totaling Kshs.260,706,550 received for the year ended 30 June 2015.

Submission by Accounting Officer

The Accounting Officer stated that the Ministry has been receiving self-declared remittances of royalties from the Company, however to verify these declarations the Ministry invoked Annex 'D' of the Special Mining Lease no. 23 which state that "The Commissioner may at his/her discretion and at the cost of the Lessee order that pricing of the products sold be verified by an independent consultant familiar with the Mineral Sands Industry and agreeable to both parties. Any information provided by either party during the procedure is confidential" and hence caused an independent audit to be undertaken to verify the declarations on quantities, prices and Royalty payments.

The selected auditors, PWC Kenya have returned an audit report stating that there are no material discrepancies between the declarations and findings of the audit.

Committee Observations and Findings

The committtee observed that this matter was covered in the report of the FY 2014/2015.

c. Irregular Export Permits

Information available indicates that export permits with a value of US$ 18,619,645 (approximately Kshs.1.9 billion) were issued during the year by an unauthorized officer whose employment contract expired on 19 April 2014. This was contrary to the then Mining Act which stipulated that, export permits were to be signed off by the Commissioner of Mines or an authorized officer whose authority has been delegated in writing.

Consequently, the validity of revenue collections on the export permits issued by the unauthorized officer cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the office of the Cabinet Secretary in the Ministry of Mining in 2014 had put in place administrative measures to bring transparency and accountability in processing of the Export Permits where vetting of the Applications to Export Minerals was separated from issuance of the Export permits. To operationalize this process, the Mineral Audit Unit was formed with among other functions to audit Applications for Export Permit.

The above officer referred as unauthorized was the Head of the Unit and therefore, as a matter of procedure, had to vet the applications and forward them to the Commissioner of Mines with advisory notes. The authority to issue the permits was done by the Commissioner of Mines.

The Accounting Officer confirmed that the committee that records in our office indicate that the said officer was Mr. Said Athman a substantively appointed Mining Secretary with the Personal Number 2008080402 in Job Group 'T'. He was transferred from the Ministry of Devolution and Planning on 25th September, 2013.

Committee Observations and Findings

The committtee observed that this matter was covered in the report of the FY 2014/2015.

d. Pending Bills

As was disclosed under Annex 1 to the prior year's financial statements, the Ministry had pending bills totaling Kshs.9,060,804 as at 30 June 2015 relating to 2014/2015 financial year carried forward to 2015/2016 financial year. Therefore, the reported operating expenses were understated by same amount.

Submission by Accounting Officer

The Accounting Officer stated that the Ministry had pending bills amounting to Kshs.9,060,80.00 for the supply of goods and services in the Recurrent Vote. The payments were not made due to liquidity challenges.

Out of the Recurrent Budget of Kshs.753,711,140.00 only Kshs.665,765,000.00 was funded from the Exchequer leaving a balance of Kshs.87,947,140 as Exchequer under issues. It is noted that the Bank Balance of Recurrent Cash Book as at 30th June 2015 was Kshs.178,116.00.00 which was not adequate to pay the Pending Bills amounting to Kshs.9,060,804.00.

The bills have since been verified and validated by the Internal Auditor, forwarded to the National Treasury and Kshs.7,991,000.00 has since been paid.

Committee Observations and Findings

The committtee observed that this matter was covered in the report of the FY 2014/2015.

Other Matter

508. Budget Control and Performance

508.1 Budgetary Absorption

The summary statement of appropriation-recurrent and development combined for the year ended 30 June 2016 reflects total approved final budget of the Ministry of Mining of Kshs.1,351,131,429. Out of this amount, Kshs.737,070,000 (55%) and Kshs.614,061,429 (45%) were allocated to recurrent and development expenditure respectively, but only Kshs.1,017,042,051 (75%) was absorbed. As a result there was under absorption totaling Kshs.335,627,293 on four expenditure items as summarized below:

Expense Item	Approved Final Budget	Actual Expenditure	Over Absorption	Under Absorption	% of Utilization
	Kshs	Kshs	Kshs	Kshs	%
Compensation of Employees	369,254,818	370,792,733	1,537,915	-	100
Use of goods and services	370,149,619	267,844,084	-	102,305,535	72
Other grants and transfers	18,000,000	16,830,000	-	1,170,000	94
Social Security Benefits	15,623,286	6,528,196	-	9,095,090	42
Acquisition of Assets	578,103,706	355,047,038	-	223,056,668	61
Grand Totals	**1,351,131,429**	**1,017,042,051**	**1,537,915**	**335,627,293**	**75**

The under absorption of approved budget indicates that some activities and projects in the annual work-plan were not implemented by the Ministry which is likely to have negatively impacted on delivery of services to the public.

Submission by Accounting Officer

The Accounting Officer stated that the overall budget under-absorption in both the Recurrent and Development vote was occasioned by the following factors:

i. Delayed Exchequer releases for the Financial Year ending 30th June 2016.
ii. Technological and systemic challenges e.g. IFMIS downtime and breakdown affecting operations including the late activation of the IFMIS System in Mid-September.
iii. Budget rationalization/cuts (Austerity measures) in the Supplementary Estimates of the Financial Year 2015/16 which reduced the budget from Kshs. 2,188,072,090.00 to Kshs.1,291,070,000.00 a reduction of Kshs.897,002,090.00. This resulted in the distortion of the procurement plan.
iv. Administrative and transition challenges e.g. The Presidential Directive of May 2016 that effected the mass transfer of Accountants, Finance officers and Procurement officers which affected the operations in the last quarter of the Financial Year 2015/16.
v. Delay in Submission of Invoices by suppliers and merchants by which time budget cuts had been effected leading to pending bills
vi. Budget Rationalization in the Recurrent Vote on common user items e.g. Hospitality Costs, General Office Supplies, Specialized Supplies and Materials, Local and Foreign Travel and Subsistence costs by 25% in the Supplementary Estimates of the Financial Year 2015/16 which resulted in Pending Bills.

Committee Observations and Findings

(i) The Committee observed that an amount of Kshs.737,070,000 (55%) and Kshs.614,061,429 (45%) were allocated to recurrent and development expenditure respectively, but only Kshs.1,017,042,051 (75%) was absorbed.

(ii) There was an under absorption totalling Kshs.335,627,293 on four expenditure items.

Committee Recommendations

(i) Accounting Officers should at all times make their requisition for exchequer in time to enable the Ministry/State Department transmit to the National Treasury for processing in line with the provisions of the PFM Act 2012 and PFM (National Government) Regulations 2015;

(ii) The Integrated Financial Management Information Systems (IFMIS) has persistently been bedeviled by various challenges that impede effective public finance management. The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report submit to the National Assembly an IFMIS audit and reconfiguration plan that support timely budget execution and seal loophole for siphoning public money;

508.2 Development Budget

According to the summary statement of appropriation-development for the year ended 30 June 2016, the Ministry of Mining had a budgetary allocation of Kshs.614,061,430 for development projects but only expended Kshs.370,155,891 (60%), resulting in under expenditure of Kshs.243,905,539 or 40% of budget. The under-expenditure was on the following items:

Expense Item	Approved Final Budget	Actual Expenditure	Budget Utilization Difference	% of Utilization
	Kshs	Kshs	Kshs	%
Use of goods and services	66,740,000	35,509,474	31,230,526	53
Acquisition of Assets	547,321,429	334,646,417	212,675,012	61
Totals	**614,061,429**	**370,155,891**	**243,905,538**	60

The under-expenditure of Kshs.243,905,538 implies that the Ministry of Mining did not implement or complete some of the planned projects and hence their intended objectives were not achieved in the year under review.

Submissions by accounting officer

TheAccounting Officer stated that the overall budget under-absorption in the Development vote was occasioned by the following factors:

i. Delayed exchequer releases for the Financial Year ending 30th June 2016

ii. Technological and systemic challenges IFMIS downtime and breakdown affecting operations including the late activation of the IFMIS System in Mid-September.
iii. Budget rationalization/cuts (Austerity measures) in the Supplementary Estimates of the Financial Year 2015/16 which reduced the budget from Kshs. 2,188,072,090.00 to Kshs.1,291,070,000.00 a reduction of Kshs.897,002,090.00. This resulted in the distortion of the procurement plan.
iv. Administrative and transition challenges e.g. The Presidential Directive of May 2016 that effected the mass transfer of Accountants, Finance Officers and Procurement Officers which affected the operations in the last quarter of the Financial Year 2015/16.
v. Delay in Submission of Invoices by suppliers and merchants by which time budget cuts had been effected leading to pending bills

Committee Observations and Findings

The Ministry of Mining had a budgetary allocation of Kshs.614,061,430 for development projects but only expended Kshs.370,155,891 (60%), resulting in under expenditure of Kshs.243,905,539 or 40% of budget.

Committee Recommendations

(i) The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report put in place a framework to address the budget execution problem of persistent development budget exchequer release shortfalls that adversely affect implementation of development programmes and projects; and

(ii) The Integrated Financial Management Information Systems (IFMIS) has persistently been reported by the Accounting Officers as a hindrance to the budget execution.

(iii) The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report submit to the National Assembly an IFMIS audit and reconfiguration plan that support timely budget execution and seal loopholes for misuse of public funds.

508.3 Recurrent Budget

Similarly, the summary statement of appropriation-recurrent for the year under review shows that the Ministry of Mining had a recurrent budget of Kshs.737,070,000, while the actual expenditure was Kshs.646,886,160 (88%), resulting in under expenditure of Kshs.90,183,840 or 12% of the budget. The under expenditure was on the following items: -

Receipt/Expense Item	Final Budget (Kshs)	Actual Expenditure (Kshs)	Budget Utilization Difference (Kshs)	% of Utilization
Compensation of Employees	369,254,818	370,792,733	(1,537,915)	100
Use of goods and services	303,409,619	232,334,610	71,075,009	77

Other grants and transfers	18,000,000	16,830,000	1,170,000	94
Social Security Benefits	15,623,286	6,528,196	9,095,090	42
Acquisition of Assets	30,782,277	20,400,621	10,381,656	66
Totals	**737,070,000**	**646,886,160**	**90,183,840**	**88**

Underutilization of the budgeted expenditure results in non-provision of planned goods and services, which in turn affects service delivery to the public negatively.

Submission by Accounting Officer

TheAccounting Officer stated that the overall budget under-absorption in the Recurrent Vote was occasioned by the following factors:

i. Budget rationalization in the Recurrent Vote on common user items e.g. Hospitality costs, General Office Supplies, Specialized Supplies and Materials, Local and Foreign Travel and Subsistence costs by 25% in the supplementary estimates of the Financial Year 2015/16 which resulted in pending bills.
ii. Delayed Exchequer releases for the Financial Year ending 30th June 2016.
iii. Technological and systemic challenges e.g. IFMIS downtime and breakdown affecting operations including the late activation of the IFMIS System in Mid-September.
iv. Budget rationalization/cuts (Austerity measures) in the Supplementary Estimates of the Financial Year 2015/16 which reduced the budget from Kshs.2,188,072,090.00 to Kshs.1,291,070,000.00, a reduction of Kshs.897,002,090.00. This resulted in the distortion of the procurement plan.
v. Administrative and transition challenges e.g. The Presidential Directive of May 2016 that effected the mass transfer of Accountants, Finance officers and Procurement Officers which affected the operations in the last quarter of the Financial Year 2015/16.

Committee Observations and Findings

(i) The actual expenditure was Kshs.646,886,160 (88%), resulting in under expenditure of Kshs.90,183,840 or 12% of the budget.
(ii) Under-utilization of the budgeted expenditure results in non-provision of planned goods and services, which in turn affects service delivery to the public negatively.

Committee Recommendations

(i) The Integrated Financial Management Information Systems (IFMIS) has persistently been reported by the Accounting Officers as a hindrance to the budget execution and has also been used to siphon public funds. The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report submit to the National Assembly an IFMIS audit and reconfiguration plan that support timely budget execution and seal loopholes for misuse of public funds.

(ii) The Cabinet Secretary for the National Treasury should within three months (3) after adoption of this report put in place a framework to address the persistent recurrent budget exchequer releaseshortfalls that adversely affect implementation of development programmes and projects.

509. Delays in Commissioning of Ministry Laboratory

As reported in my 2014/2015 report, the Ministry, during that financial year, completed the construction of its new laboratory complex at Industrial Area at a cost of Kshs.102,848,436. However, the laboratory is yet to be commissioned and thus remains idle. Site visit to the laboratory building in April 2017 revealed that the floor tiles on the 1st floor of the building were defective, having developed cracks and peeled off with some electric light fittings hanging out loosely. This is indicative of poor workmanship or low quality of the materials used. The Ministry may have to incur repair costs in order to restore the laboratory before it is commissioned for use. Under the circumstances, it has not been possible to confirm whether the Ministry obtained value-for-money on the expenditure totaling Kshs.102,848,436 incurred in putting up the laboratory.

Submission by Accounting Officer

The Accounting Officer stated that it was true as reported in your 2014/15 report, the Ministry during financial year completed the construction of its new laboratory at Industrial Area at a cost of Kshs.102,848,436.00 and the laboratory was yet to be commissioned and remained idle.

The Ministry took possession of the new laboratory in December, 2014. This laboratory is meant to be an Internationally Accredited Mineral Certification Laboratory equipped with modern analytical equipment.

The long process of accreditation and certification of the laboratory, procurement of equipment which is done in phases including sourcing some equipment from outside the country which is ongoing and acquisition of furniture led to the delay in commissioning and the laboratory being idle.

The Laboratory became operational towards end of 2016/2017 financial year after acquisition of laboratory equipment's and furniture and this was three years down the line, so the movement of heavy equipment and furniture affected the floor which resulted into cracked tiles and fittings hanging loosely. Some of the electric fittings which were loosely hanging have since been rectified.

Committee Observations and Findings

The committee observed that the matter was handled in the report for the FY 2014/2015 which has already been adopted by the National Assembly.

27.0. OFFICE OF ATTORNEY-GENERAL AND DEPARTMENT OF JUSTICE FINANCIAL STATEMENTS FOR VOTE 1251

Mr. Kennedy Ogeto, the accounting officer Office of the Attorney General and Department of Justice appeared before the Committee on Tuesday, 26th February 2019 to adduce evidence on the audited Financial Statements of Vote 1251Office of the Attorney General and Department of Justice for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied bythe following Officials:

1. **Ms. Clare Omolo - Secretary Administration**
2. **Mr. Kenneth Gathuma - Ag. Director General BRS**
3. **Mr. W. Masinde - Chief Finance Officer**
4. **Mr. Francis C. K. Maina - Ag. Director CISCOS**
5. **Mr. P. Thoithi Kanyuira - DCSC**
6. **Mr. Benjamin Oyile - Deputy Secretary**
7. **Ms. Concepta Wasilwa - Chief State Counsel**
8. **Mr. Erastus Mbalu - BRS**
9. **Mr. Elijah Kabiru - SAAG**

Basis for Adverse Opinion

510. Accuracy and Completeness of the Financial Statements

510.1 Fixed Assets Register

The assets register was not duly updated and did not include all the assets that belong to the Office. In addition, further examination of the register revealed that it had excluded motor vehicles. Further, assets belonging to the defunct Commission for the Implementation of the Constitution (CIC) were not included in the register even though all assets of the Commission were transferred to the Office of the Attorney- General and Department of Justice.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the OAG&DJ Asset Register was not complete as to include a category of motor vehicle and asset belonging to the defunct Commission Implementation of the Constitution and that the situation is regretted. He reported that the State department has now compiled a comprehensive asset register incorporating the motor vehicles and Assets belonging to the defunct CIC. The Asset Register is available for audit review.

Committee Observations and Findings

The Accounting Officer did not update asset register with to include all the motor vehicles owned by the entity as required under Regulation 143 of the PFM (National Government) Regulations 2015

Committee Recommendations

The Accounting Officer should ensure that the asset register is continuously updated to include all assets owned by the entity including the motor vehicles as required under Regulation 143 of the PFM (National Government) Regulations 2015;

510.2. Suspense Account

The statement of assets as at 30 June 2016 reflects a balance of Kshs. 82,485,174 under suspense account. However, the balance had not been analyzed or explained in the notes to the financial statements.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the statement of assets as at 30th June, 2016 reflected a balance of Kshs. 82,485,174.35 as suspense account. The IFMIS print out as at 30.06.2016 showed the analysis to be as follows:-

Domestic debtors / advances	Kshs. 2,968.10
Other debtors and prepayments	Kshs. 46,883,657.30
Government imprests	Kshs. 24,866,512.40
Suspense and clearance accounts	Kshs. 10,732,036.55
Total	Kshs. 82,485,174.35

These items were as a result of lack of bank reconciliation and non-clearance of unaccounted transactions. The unaccounted transactions were cleared and the suspense account corrected as shown by the revised financial statements.

Committee Observations and Findings

The statement of assets as at 30th June, 2016 reflected a balance of Kshs. 82,485,174.35 as suspense account. The balance had not been analyzed or explained in the notes to the financial statements at the time of the audit.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

510.3 Integrated Financial Management System Balances

The figures reported in the financial statements did not tally with identical account balances in the Integrated Financial Management and Information System records, (IFMIS) as follows:

Details	Amount as per the financial statements (Kshs.)_	Amount as per IFMIS reports (Kshs.)_	Unexplained Difference(Kshs.)_
Receipts	3,325,900,000	4,487,499,140	(161,599,140)
Payments	32,091,139,936	2,958,851,030	(250,288,906)
Financial Assets	278,240,359	3,205,306,895	(2,927,066,536)
Financial liabilities	159,465,686	2,284,813,073	(2,125,347,387

In view of the foregoing, the accuracy and completeness of the financial statements could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the figure reported in the financial statements do not tie to the figures in IFMIS. The variance was as a result of auto-reconciliation and unaccounted transactions in the IFMIS not being fully functional and cleared respectively. The Central Bank of Kenya had not timely uploaded all the system bank statements in the IFMIS. However, the figures used in the financial statements are the actual figures of expenditure, budget and balances which are supported by the relevant notes in the financial statements. Thus the financial statements showed the actual position.

Committee Observations and Findings

The figure reported in the financial statements did not tie to the figures in IFMIS. The variance was as a result of auto-reconciliation and unaccounted transactions in the IFMIS not being fully functional and cleared respectively

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

511. Cash-and-Cash Equivalents

The statement of financial position as at 30 June 2016 reflects cash-and-cash equivalents' balance of Kshs. 188,433,566 for the Recurrent, Development and Deposits accounts. However, bank reconciliation statements for the recurrent and development accounts were not made available for audit review. Further, the deposit bank reconciliation statement as at 30 June 2016 reflects the following long outstanding balances:

i. Payments in the Cash Book not in the Bank Statement

Payments amounting to Kshs. 43,503,613 had been recorded in the cash book but not reflected in the bank statements. Out of this balance, an amount of Kshs. 3,398,126 relates to cheques which were already stale. The balances also include an amount of Kshs.26,890,000 referred to as 'revenue collected' and featured in the monthly bank reconciliation statements during the whole year under review while Kshs.3,564,790 relates to under-casts which have not been adjusted.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the financial statements reflects a balance of Kshs.188,433,566.00 for cash and cash equivalent for the Recurrent, Development and Deposits account. Further it is true that the deposit bank reconciliation statement had long outstanding balances. The balance is Kshs. 188,433,746 after revising the financial statements. The Office of the Attorney General and Department of Justice is in process of reconstructing the bank reconciliation and cleaning up the unaccounted transactions to clear the outstanding issues. The OAG&DoJ has formed a Committee to undertake the Deposit analysis and bank reconciliation to clear the outstanding issues. This will include both Recurrent and Development bank reconciliations; we have reconciled up to June 2017. The Kshs. 43,503,613 was revenue collected and recorded in the cash book. The Kshs. 3,398,126 and Kshs. 26,890,000 relate to revenue collected and captured in the deposit cash book.

Committee Observations and Findings

The financial statements reflect a balance of Kshs.1 88,433,566.00 for cash and cash equivalent for the Recurrent, Development and Deposits account. Further it is true that the deposit bank reconciliation statement had long outstanding balances.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

ii. Receipts in Bank Statement not in the Cash Book Amount

Receipts amounting to Kshs. 202,064,314 reflected in the bank statements had not been recorded in the cash book. Out of this amount, Kshs. 107,611,163 relates to receipts for the financial year 2013/14.

Submission by Accounting Officer

The Accounting Officer submitted that the office has formed a Committee to help with the reconciliation of prior years' outstanding receipts in the bank statement.

Committee Observations and Findings

Receipts amounting to Kshs. 202,064,314 reflected in the bank statements had not been recorded in the cash book. Out of this amount, Kshs. 107,611,163 relates to receipts for the financial year 2013/14.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3)

monthsafter the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012.

iii. Payments in the Bank Statement not Recorded in the Cash Book

The bank reconciliation statement reflects payments amounting to Kshs. 71,655,277 that are in the bank statements but not recorded in the cash book. Out of this amount is an unexplained Treasury Exchequer Issue (error) amounting to Kshs. 22,666,655 while an amount of Kshs. 24,729,922 relates to payments made from 6 November 2013 to 14 October 2015 which have, not been recorded in the cash book.

Submission by Accounting Officer

The Accounting Officer submitted that the office has formed a Committee to help with the reconciliation of prior years' outstanding receipts in the bank statement.

Committee Observations and Findings

The bank reconciliation statement reflects payments amounting to Kshs. 71,655,277 that are in the bank statements but not recorded in the cash book. Out of this amount is an unexplained Treasury Exchequer Issue (error) amounting to Kshs. 22,666,655 while an amount of Kshs. 24,729,922 relates to payments made from 6 November 2013 to 14 October 2015 which have, not been recorded in the cash book.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012. Further, the Committee formed by the Accounting Officer to help with the reconciliation of prior years' outstanding receipts in the bank statement should finalize its report and submit to the Auditor-General

iv. Receipts in the Cash Book not Recorded in the Bank Statement

The bank reconciliation statement also reflects receipt totaling Kshs. 122,140,508 which had been recorded in the cash book but not reflected in the bank statements. The sum includes an un-explained balance of Kshs. 199,456,334 referred to as "transfer of closing balance and Kshs. 222,535 returned RTGS payment". The balance also includes revenue receipts amounting to Kshs. 2,461,638 which in the current state would suggest that the receipts were not banked.

In view of the foregoing, the accuracy and completeness of the cash-and-cash equivalents' balance of Kshs. 188,433,566 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that the office has formed a Committee to help with the reconciliation of prior years' outstanding receipts in the bank statement.

Committee Observations and Findings

The bank reconciliation statement also reflects receipt totaling Kshs. 122,140,508 which had been recorded in the cash book but not reflected in the bank statements. The sum includes an

un-explained balance of Kshs. 199,456,334 referred to as "transfer of closing balance and Kshs. 222,535 returned RTGS payment"

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012. Further, the Committee formed by the Accounting Officer to help with the reconciliation of prior years' outstanding receipts in the bank statement should finalize its report and submit to the Auditor-General

512. Pending Bills

The analyses of pending bills provided in the financial statements reflect bills totaling Kshs. 52,078,256 as at 30 June 2016. However, casting of the schedule yielded a balance of Kshs. 57,552,774 resulting in an unexplained difference of Kshs. 5,474,519. Further, supporting documents for the pending bills were not provided for audit review. Consequently, the accuracy, validity and completeness of the pending bills' balance of Kshs. 52,078,256 as at June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the financial statements reported pending bills amounting to Kshs. 52,078,255.68 in the adjusted Financial Statements. The figure has been re-casted and the correct figures were Kshs. 54,049,820.68 as shown in the revised financial statement. As at today FY2018/2019, the pending bills amounting to Kshs. 188,499,119.30 are well analyzed and most of them paid.

Committee Observations and Findings

The financial statements reported pending bills amounting to Kshs. 52,078,255.68 in the adjusted financial statements. The figure has been re-casted and the correct figures were Kshs. 54,049,820.68.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012. Further, the Accounting Officer should ensure there is prompt payment to service providers and suppliers to avoid incurring pending bills.

513. Excess Service Charge - Rentals of Produced Assets

During the year under review, the State Law Office incurred excess service-charge costs amounting to Kshs. 3,883,645 out of which a part payment of Kshs. 2,651,745 was made. The charge relates to the occupation of office space by the Department of Justice at Co-operative Bank House for the year ended 31st December 2015.

The basis of the payment is not clear, as explained below:

i. The payment was supported by audited service cost statements by KKCO East Africa whose certificates were not signed by the person responsible for the audit instead of a computation based on the relevant clauses of the lease agreement showing the specific service charge items payable and their contractual clauses.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the Office of the Attorney General and State Law Office incurred service charge amounting to Kshs. 3,883,645.00 of which a part payment of Kshs. 2,651,745.00 was made for occupation of office space at Cooperative Bank House for the year ending 2015.

The Office through letter Ref. AG/5165/Vol.II (234) dated 12.05.2017 wrote to the Director, Cooperative Bank for an explanation of this situation. We shall recover any excess monies paid if the calculations are erroneous once auditors confirm an excess payment was made in violation of the lease agreement. The procurement department was instructed to deal with the computation of service charge.

Committee Observations and Findings

The Office of the Attorney General and State Law Office incurred service charge amounting to Kshs. 3,883,645.00 of which a part payment of Kshs. 2,651,745.00 was made for occupation of office space at Cooperative Bank House for the year ending 2015.

Committee Recommendation

The Solicitor-General as the accounting officer for Office of the Attorney General and State Law Office should follow up on the incurred service charge amounting to Kshs. 3,883,645.00 of which a part payment of Kshs. 2,651,745.00 has already. Accounting Officer should provide a substantive report on the matter to the Auditor-General within three months of tabling and adoption of this report.

ii. The excess service charge cost of Kshs.3,347,970 is derived from a shortfall of service charge income of Kshs.9,360,240 against a cost allocation of Kshs.2,708,210 to which is added Value-Added-Tax (VAT) amounting to Kshs.535,675 to arrive at the total cost of Kshs.3,883,645,000. The cost allocation of Kshs. 12,708,210 is based on total expenditure of Kshs. 69,975,149 pro-rated against the space occupied. The total expenditure includes costs such as management cost of Kshs. 4,016,043 cleaning and sanitation, (Kshs.5,737,347) general repairs and maintenance, (Kshs.4,721,884) and Insurance (Kshs.4,950,340) among other utilities. In the absence of a lease agreement, it is not possible to confirm whether the said costs are chargeable utilities. In addition, schedules supporting the service charge payments amounting to Kshs. 9,360,240 made by the State Law Office were not availed for audit review.

Submission by Accounting Officer

The Accounting Officer submitted that they wrote to the Director, Cooperative Bank for an explanation of this situation. He submitted that they would recover any excess monies paid if the calculations are erroneous. The excess service charge of Kshs. 3,347,970 is a reimbursable shortfall based on VAT charged. The additional VAT charged amounting to Kshs.535,675 was therefore inappropriate.

In view of these anomalies, the excess charge of Kshs. 3,883,645 and the actual payment of Kshs. 2,651,745 could not be confirmed as proper charges to public funds.

Committee Observations and Findings

The Office of the Attorney General and State Law Office incurred service charge amounting to Kshs. 3,883,645.00 of which a part payment of Kshs. 2,651,745.00 was made for occupation of office space at Cooperative Bank House for the year ending 2015.

Committee Recommendation

The Solicitor-General as the accounting officer for Office of the Attorney General and State Law Office should follow up on the incurred service charge amounting to Kshs. 3,883,645.00 of which a part payment of Kshs. 2,651,745.00 has already. Accounting Officer should provide a substantive report on the matter to the Auditor-General within three months of tabling and adoption of this report.

514. Outstanding Imprest

Note 12 to the financial statements reflect an outstanding imprest of Kshs. 6,662,912. However, management did not provide an aging analysis of the imprests. Further, an imprest of Kshs. 243,612 issued on 16 June 2016 does not indicate the recipient/payee. In the circumstances, the accuracy and recoverability of the outstanding imprests totaling Kshs. 6,662,912 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Financial Statements reflected a total of Kshs. 6,662,912.00 as at 30th June, 2016. The actual outstanding was Kshs. 6,662,912.00 which has since been surrendered. The imprests have since been cleared. The imprest includes Kshs. 50,800 part of which i.e. Kshs. 47,800 had been surrendered.

Committee Observations and Findings

The financial statements reflected a total of Kshs. 6,662,912.00 as at 30th June, 2016 which has since been surrendered.

515. Previous Years' Matters

As indicated in Note 27 to the financial statements in relation to progress on auditor recommendations, the management had not acted on two issues namely; accuracy and completeness of the financial statements and unsupported revenue expenditure highlighted in previous years' reports. These issues were still outstanding as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the issue of accuracy and completeness of the financial statements existed but it has now been corrected by preparing financial statements through the system. The team dealing with bank reconciliation will also handle all payments done outside IFMIS. This is because auto reconciliation has improved the accuracy of financial statements. This is however being worked on by a Committee to improve on quality of the financial statements.

The unsupported revenue expenditure in the FY14/15 and FY 13/14 is still outstanding because the donor funded projects/activities expenditure does not pass through the parent Ministry and National Treasury. The Project Coordinator has been instructed to explain in writing the mechanisms of expensing the project funds and how the returns should be submitted to OAG&DoJ. The National Treasury has written to the donor (GIZ) through a letter ref. MOF/ERD/20/85/78/01/(12) dated 22.01.2019 to request for accountability of the funds.

Committee Observations and Findings

The Committee was informed by the Auditor General that the required documents had been provided and verified.

Committee Recommendations

(i) The Accounting Officer should ensure that the entity keeps up-to-date and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

(ii) The Accounting Officer should follow up with the relevant Ministry the matter of unsupported revenue expenditure in the FY14/15 and FY 13/14 which is still outstanding;

(iii) The Project Coordinator should, within three (3) months of adoption of this report, provide an explanation in writing to the Auditor-General explaining the mechanisms of expensing the project funds and how the returns should be submitted to OAG & DoJ.

Other Matter

516. Internal Control

The State Law Office and Department of Justice had not established an audit committee as required by the Public Finance Management Act, 2012. Further, there was no approved risk management policy. In addition, there were no disaster/business recovery plans in place, contrary to good practice for management of electronic data and other records.

As a result, the internal control system was weak and may not safeguard funds and other assets of the Office.

Submission by Accounting Officer

The accounting officer submitted that the office is in the process of establishing an audit committee which will be reviewing financial statements in future. See the attached documents to show the progress of establishing an audit Committee.

a) Risk Assessment

- There is no regular assessment of risk that the Office may be exposed to.
- There are no provisions for periodic reviews of internal controls in the office.

It was true that there is no regular assessment of Risk that the Office may be exposed to. The Office of the Attorney General and Department of Justice has formed a Committee to work on the Risk Management Policy.

b) Internal Control Environment and Policies

- There is no evidence of disaster recovery plan/business continuity program in place

It was true that the office does not have disaster recovery plan / business continuity program in place. Administration department has formed a Committee to work on disaster recovery plan

Committee Observations and Findings

There exist various internal control weaknesses in the OAG& DJ including: lack of audit committee as required by the PFM Act, 2012; no approved risk management policy; and lack of disaster/business recovery plans in place, contrary to good practice for management of electronic data and other records.

Committee Recommendations

The Accounting Officer should, within three (3) months of adoption of this report, provide to the Auditor-General an elaborate report on the measures put in place to address the various internal control gaps identified by the Auditor-General

REVENUE STATEMENTS

Basis for Qualified Opinion

517. Unremitted Revenue

The Office of the Attorney General and Department of Justice (OAG&DJ) has not been remitting revenue as analyzed below:

i) Huduma Centre

Postal Corporation of Kenya has been collecting revenue on behalf of the Company's Registry for name search and reservation, registration of business names, registration of companies and registration of welfare societies through a contract signed between the Corporation and Office of the Attorney General and Department of Justice (OAG & DoJ). A total of Kshs. 204,882,390 had been collected by the Corporation during the year under review as reflected in the Posta Pay EFT system. Out of this amount, only Kshs. 66,199,200 had been remitted to OAG & DoJ revenue account at the Central Bank as at 30th June 2016, leaving a balance of Kshs. 138,683,190. This is contrary to the provisions of the contract agreement which required monies collected by the Corporation to be remitted to the revenue account on Mondays and Thursdays of every week. Further, the contract was not availed for audit review. Under the circumstances, the validity of the transactions could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Huduma Centres under Kenya Postal Corporation collected Kshs. 204,882,390.00 as revenue. It is further observed that the Corporation managed to remit Kshs. 66,199,200.00 leaving a balance of Kshs. 138,683,190.00 being amount unremitted. All efforts have been made to ensure the same amount was transferred to our revenue account at Central Bank of Kenya as per attached copies of communications. We are liaising with the National Treasury for the contract on Huduma services.

Committee Observations and Findings

The Kenya Postal Corporation through contract signed under Huduma Centres agreement collected Kshs. 204,882,390.00 as revenue on behalf of the OAG&DJ for services such as name search and reservation, registration of business names, registration of companies and registration of welfare societies Kenya Postal Corporation remitted only Kshs. 66,199,200.00 leaving a balance of Kshs. 138,683,190.00 as at the close of the FY.

Committee Recommendations

(i) The Chief Executive Officer, Kenya Postal Corporation should within three (3) months of adoption of this report, transfer to OAG&DJ revenue account at Central Bank of Kenya all revenue collected in line with the agency agreement;

(ii) The Solicitor-General as the Accounting Officer should, within three (3) months of adoption of this report, avail to the Auditor-General the Huduma Centre agency agreement between the OAG&DJ and the Kenya Postal Corporation.

ii) E-Citizen

An amount of Kshs. 11,040,750 in respect of names' search and reservation, registration of companies and registration of business names, had been collected through the ECitizen platform by 30 June 2016. However, there was no evidence that this amount has been remitted to the Treasury as required.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that an amount of Kshs. 11,040,750 in respect of names search and reservation, registration of companies and registration of business names had been collected through the E-Citizen platform. By 30th June, 2016 all remittance was done to National Treasury Revenue Account at CBK as per attached.

Committee Observations and Findings

The E-Citizen platform collected a total of Kshs. 11,040,750 as at 30th June 2016 in respect of names search and reservation, registration of companies and registration of business names had been collected. However, the remittance was done to the National Treasury Revenue Account at the CBK.

Committee Recommendations

The Auditor General should within three (3) months of adoption of this report, undertake a special audit of the E-Citizen platform with a view to determine how much money has been collected through the platform since inception and how much revenue has been remitted to the various government agencies using the platform for service delivery.

iii) Safaricom

Safaricom collects revenue in respect of names' search on behalf of OAG & DoJ. By 30 June 2016 an amount of Kshs. 1,538,316 had been collected but the collection had not been remitted to the Treasury as required.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Safaricom collected Kshs. 1,538,316.00 as revenue. The same amount has been remitted to the Central Bank of Kenya and factored in the revenue statement. We had requested Safaricom to provide the data.

Committee Observations and Findings

Safaricom collected revenue totaling Kshs. 1,538,316 in respect of names' search on behalf of OAG & DoJ. However, these amounts were not remitted to the OAG&DJ account by 30 June 2016.

Committee Recommendations

The Chief Executive Officer of Safaricom should ensure that all revenues collected on behalf of any government agency are remitted to the relevant agency within the stipulated time in line with agency agreement.

iv) Deposit Account

Public Trustee Fees amounting to Kshs. 1,099,057 was transferred to the OAG & DoJ Deposit account No.1000182334.00 on 18th August 2015. However, there was no evidence that the amount has been remitted to the revenue account at the Central Bank.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that Ksh. 1,099,056.90 being Public Trustees fees was wrongly deposited in deposit Account Number 1000182334 on 8th August 2015. The omission will be rectified once the committee established for analysis of deposits has cleared its work.

Committee Observations and Findings

Public Trustee Fees amounting Ksh. 1,099,056.90 was wrongly deposited in deposit Account Number 1000182334 on 8th August 2015. This has not been rectified awaiting the committee established for analysis of deposits to clear its work.

v) Conveyance/Chattels Fees

The revenue statement reflects conveyance / chattels fees amounting to Kshs. 1,090,250. The Integrated Financial Management Information System trial balance did not however indicate any revenue under the item, therefore understating the revenue collected. In the circumstances, revenue totaling Kshs. 152,361,312 could not be confirmed as received by National Treasury, and no explanation for this anomaly has been provided by the management.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the working sheet of the revenue statement reflects Ksh.1,090,250.00 being fees collected from Chattels, however, the same is not reflected in the IFMIS comparative trial balance because the source economic activity of Chattels was not defined in the IFMIS platform. The amounts are therefore captured under Registration of Companies fees in the IFMIS planform. Such economic activities were not reflected in the revenue budget for the year of reporting because the revenue vote was not activated. This has since been activated in IFMIS and we are capturing the receipts as Chattels on their own.

Committee Observations and Findings

The working sheet of the revenue statement reflected Ksh. 1,090,250.00 being fees collected from Chattels. However, this amount was not reflected in the IFMIS comparative trial balance because the source economic activity of Chattels was not defined in the IFMIS platform. The anomaly has been corrected and revenue from Chattels is now being captured under IFMIS

518. The revised revenue statements submitted for audit were not signed by the accounting officer as required by regulations. Further, the accounting officer failed to submit a management representation letter as required by auditing standards.

Submission by Accounting Officer

The revised statements now have been signed by the Accounting Officer as per the regulations. Please find a copy of management representation letter that was submitted by the office.

Committee Observations and Findings

The Accounting Officer did not sign the revised revenue statements submitted for audit thereby contravening Regulation 43 of the PFM (National Government) Regulations 2015. Further, the accounting officer failed to submit a management representation letter as required by auditing standards

Committee Recommendations

An Accounting Officer must at all times take personal responsibility for correctness of all financial statements by appending his/her signature on the statement in line with Regulation 43 of the PFM (National Government) Regulations 2015.

519. Prior Year Matters

The Office of the Attorney General and Department of Justice (OAG & DoJ) has not provided a comprehensive report on when and how the previous year's matters are to be addressed.

Submission by Accounting Officer

The Accounting Officer submitted that the prior year matters have been addressed through memorandum to the National Treasury. The management has also established a Committee to deal with all the previous year's matters as recommended by PAC.

Committee Observations and Findings

The OAG &DJ prior year matters have been addressed through memorandum to the National Treasury. The management has also established a Committee to deal with all the previous year's matters as recommended by PAC.

Committee Recommendations

The Cabinet Secretary, National Treasury should submit to the National Assembly a memorandum on how each of the national government entities has addressed the recommendation of the AC report for the FY 2014/2015

OFFICIAL RECEIVER

Basis for Adverse Opinion

520. Inaccuracies in the Financial Statements

The trial balance had the following anomalies:

a) A total of Kshs. 28,283,703 being balance for various accounts had not been reflected in the Trial balance and no explanations were provided for the omission.

Submission by Accounting Officer

The Accounting Officer submitted that the balance of Kshs.28,283,703 in the financial statement were not on the credit side of the trial balance but they were represented by a debit balances in the same trial balance and were availed and scrutinized by the auditor during responses to the management letter. The balance was made up of various entries as shown by the revised financial statements.

Committee Observations and Findings

The matter has been addressed between the Auditor-General and the OAG&DJ through management letter.

b) The following accounts included in the trial balance reflect both debit and credit balances:

Account	Debit Balance (Kshs)	Credit Balance (Kshs)	Net Balance (Kshs)
Companies Contingency Fund	23,068,079	10,000,000	13,068,079
Bankruptcy Contingency Fund	21,256,921	13,046,655	8,210,266
Ken Ren Chemicals & Fertilizer Ltd	82,497,285	39,000,000	43,497,285
Continental Credit Finance	10,795,591	13,000,000	-2,204,409
Rural Urban Credit Finance Ltd	783,832	3,000,000	-2,216,168

Management has not provided any explanation for the anomalies.

Submission by Accounting Officer

The Accounting Officer submitted that the official Receiver debits the ledger account with amounts being transferred to Fixed Deposit for investment as well as all the expenses incurred in the financial year. The credits on the trial balance represent the funds held by the Official Receiver on behalf of creditors and other interested parties.

Committee Observations and Findings

The matter has been addressed between the Auditor-General and the OAG&DJ through management letter.

c) The trial balances for three regions namely Nairobi, Mombasa and Kisumu did not balance, as summarized below:

Region	**Debit** (Kshs.)	**Credit** (Kshs.)	**Difference (Kshs.)**
Nairobi	429,445,419	429,395,266	60,153
Mombasa	2,650,000	2,708,905	-58,905
Kisumu	7,220,681	6,060,458	1,160,223
Total	**438,326,265**	**438,164,629**	**1,161,471**

Submission by Accounting Officer

The Accounting Officer submitted that the trial balances for three regions namely: Nairobi, Mombasa and Kisumu had balanced as evidenced by the attached amended trial balance as per the consultation with the auditor for the three regions. The correct position as per the amended trial is as follows

Region	Debit	Credit	Difference
Nairobi	428,455,584	428,455,584	0
Mombasa	2,650,000	2,650.000	0
Kisumu	7,220,681	7,220,681	0
Total	438,326,265	438,326,265	0

Committee Observations and Findings

The matter has been addressed between the Auditor-General and the OAG&DJ through management letter.

d) Opening Balances

The following wrong opening balances were not explained.

Item	Opening	Opening 2015/2016 Kshs	Closing 2014/2015 (Kshs)	Variance (Kshs)	Comments
1.	Other Revenues	29,832,130	29,171,829	660,301	Not explained
2.	Compensation of Employees	12,131,891	12,012,891	119,000	"
3.	Use of Goods and Services	16,476,761	16,300,001	176,760	"
4.	Other Expenses	132,212,286	132,206,786	5,500	"
5.	Balances b/forward	444,578,979	564,097,551	119,518,572	"
6.	Prior Year Adjustment	14,680,619	14,312,579	368,040	"

Submission by Accounting Officer

Item	Opening 2015/2016 (Kshs)	Closing2014/2015 (Kshs)	Variance (Kshs)	Comments
Other Revenues	29,832,130	29,171,829	660,301	The correct position of other revenues for 2015/2016 was Kshs.22,090,154 and the year 2014/2015 was Kshs.29,832,130 as opposed to the quoted figures see the attached
Compensation of Employees	12,131,891	12,012,891	119,000	The correct position of other compensation to employees for 2015/2016 was Kshs.12,827,000 and the year 2014/2015 was Kshs.12,131,891 as opposed to the quoted figures see the attached
Use of Goods and Services	16,476,761	16,300,001	176,760	The correct position of us e of goods for 2015/2016 was Kshs.14,470,286 and the year 2014/2015 was Kshs.16.476,761 as opposed to the quoted figures seethe attached

Other Expenses	132,212,286	132,206,786	5,500	The correct position for other expenses in 2015/2016 was Kshs.582.162 as opposed to the quoted figures of 132,212,286 seethe attached
Balance b/forward	444,578,979	564,097,551	119,518,572	The difference of 119,518,572 was occasioned by prior year adjustments of Kshs. 14,680.619 and an increase of deposits of Kshs.104.837,957 in the financial year 2014/2015.
Prior Year Adjustments	14,680,619	14,312,579	368,040	The correct position for other prior adjustments in 2015/2016 was NIL as opposed to the quoted figures of kshs.14,680.619

Committee Observations and Findings

The matter has been addressed between the Auditor-General and the OAG&DJ through management letter.

(e) Further, the financial statements did not include a statement of changes in equity as required under the International Public Sector Accounting Standards. In the view of the foregoing, the accuracy and completeness of the financial statements for 2015/2016 cannot be confirmed.

The Official Receiver financial statement is usually in the cash basis method of which the template does not provide for the changes in equity.

Submission by Accounting Officer

The matter was resolved by the auditor general.

Committee Observations and Findings

The matter has been addressed between the Auditor-General and the OAG&DJ through management letter.

521. Fixed Assets Register

The financial statements are prepared under the Cash Basis of Accounting Method under the International Public Sector Accounting Standards (IPSAS). This method does not present assets and liabilities in the financial statements other than cash and cash equivalents. The Official Receiver however, handles all assets and liabilities of institutions and persons under liquidation or bankruptcy. Further, the assets register of fixed assets owned by the Official Receiver reflects a brought forward balance of Kshs.1,061,200 and new acquisitions during the year under review costing Kshs.136,430 which however had not been provided for audit review.

In the circumstance, it had not been possible to ascertain the presentation and disclosure of the fixed assets reflected in the financial statements as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the official receiver handles all assets and liabilities of institutions and persons under liquidation or bankruptcy. These assets are not owned by the Official Receiver. However, all these assets and liabilities are held under trust (on behalf of creditors) by the official receiver. All the assets and new acquisitions all belong to the institutions which are under official receiver and have got staffs that assist the official receiver on his work.

Committee Observations and Findings

The matter has been addressed between the Auditor-General and the OAG&DJ through management letter.

522. Payment for Unsubstantiated Legal Services

The Official Receiver paid legal fees totaling Kshs. 5,800,000 as interim fees for representing the office in Civil Case No. 461 of 1015 Petition No.560/2015: In a memo dated 8th June 2016, the Deputy Chief State Counsel informed the Official Receiver that the claim against the Government was over 7 (seven) billion shillings and that the advocates had filed good defense and the matter was progressing well. However;

a) no explanation has been provided by the State Law Office on how the advocate was procured;
b) it is not explained how the fee note amounting to Kshs.5.8 million was arrived at;
c) the contract for the legal services was not made available for audit review;
d) no evidence has been presented to show that the Attorney General was consulted prior to appointment of the lawyer firm as required by regulations and,
e) the effect of the possible contingency loss had not been disclosed in the financial statements presented for audit.

In view of the foregoing, it has not been possible to confirm that the procurement of the legal services conformed to procurement regulations and the subsequent payment represented a proper charge on public funds.

Submission by Accounting Officer

The Accounting Officer submitted that:

a) The Official Receiver has not procured any legal services a fresh. D Njogu and Co. Advocates was procured when Pioneer Building Society and Capital Finance Ltd financial institutions become insolvent in 1980s and 1990s, prior to the Public Procurement and Disposal Act 2005. It only responds to the same files which are handled by the firm.
   D. Njogu and Co. Advocates was appointed long time ago in 1990s by the then official Receiver Mr. Omondi Mbago.

   The firm has been handling long standing matters of the official receiver and is well versed with matters of official receiver.

They have been successful in these matters and are willing to wait for payment in cases where the official receiver does not have immediate funds for paying legal fees.

b) The basis used to scale legal fees is based on the Advocates Remuneration Order. Sometimes they tax bills in court where there is a disagreement.
The current list of advocates having matters for official receiver is:
- Wangai Nyuthe & Co. Advocates
- D. Njogu & Co. Advocates
- Oira & Co. Advocates

c) See management comments in (a) above i.e. The Official Receiver has not procured any legal any legal services afresh. D Njogu and Co. Advocates was procured when Pioneer Building Society and Capital Finance Ltd financial institutions become insolvent in 1980s and 1990s, prior to the Public Procurement and Disposal Act 2005. It only responds to the same files which are handled by the firm.
D. Njogu and Co. Advocates was appointed long time ago in 1990s by the then official Receiver Mr. Omondi Mbago.

The firm has been handling long standing matters of the official receiver and is well versed with matters of official receiver.

They have been successful in these matters and are willing to wait for payment in cases where the official receiver does not have immediate funds for paying legal fees dues.

d) The Attorney General has been sued as an independent party and is being represented by the Chief State Council on the matter who is supposed to brief the Attorney General. However, Official Receiver has filed a robust defense through D. Njogu & Co. Advocates and expects the matter to be dismissed.

e) There was no any contingency loss anticipated. The official receiver has in the defense file clearly shown that Mugo Mungai has no claim on official receiver.

Committee Observations and Findings

The matter has been addressed and therefore resolved

523. Unsupported Cash Balances

The statement of financial position reflects bank balances of Kshs. 277,456,206 which include balances amounting to Kshs. 23,068,080 and Kshs. 581,202 for Companies Contingent Fund and Kenya National Assurance Co. Limited respectively which however are not supported with bank reconciliation statements and bank confirmation certificates. Therefore, the accuracy and completeness of the balances could not be ascertained.

Submission by the Accounting Officer

The Accounting Officer submitted that the figure of Kshs. 581,202 was arrived at adding up a cash book balances as at 30/6/2016 of Kshs. 490,770 and a bank balance of Kshs.90,432 at Bank of Africa which was an interest earned by FDR at the bank. This matter was fully addressed during response to management letter

Committee Observations and Findings

The matter has been addressed between the Auditor-General and the OAG&DJ through management letter.

524. Unexplained Expenditure

The statement of receipts and payments reflects expenditure totaling Kshs.14,470,286 on use of goods and services which includes Kshs.5,800,000 received from other institutions under liquidation to pay for legal services incurred on Pioneer Building Society, (under liquidation) for services rendered on behalf of the Society. It is not clear how funds from one institution under liquidation could be used to settle bills for another institution under liquidation. Further, no explanation has been provided on how the funds would be recovered. Consequently, the propriety of the expenditure and value-for-money on the expenditure totaling Kshs. 5,800,000 cannot be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the funds to pay the above firm were borrowed from several other bankrupt companies to pay partly an interim fee note to the above firm which was at that time at Kshs.5,800,000 but Kshs.2,600,000 was paid as per the approval from the Registrar General. This was done to save a claim of Kshs.7.341 billion by a debtor Mugo Mungai to ensure a defense was promptly filed. There were no funds in the Pioneer Building Society Account to pay for the fee note submitted. The case is still ongoing in the courts.

It was anticipated that the amount borrowed will be recovered on the conclusion of the case against the Government of Kenya in which Mugo Mungai is claiming Kshs.7.341 Billion as per the fee note.

Committee Observations and Findings

The matter has not been addressed since the case is still ongoing in the courts.

Other matter

525. Internal Control Weakness

The internal control system of the Official Receiver had the following weakness:

a) No internal audit function for oversight of the operations of the Official Receiver.
b) No audit committee to oversee the audit function.
c) No risk management policy document.
d) No risk assessment carried out to identify and address key areas of concern and document specific controls in response to identified risks.
e) No operating manuals published to guide key processes and controls for receipts from debtors/customers, payments to creditors, personnel, expenditure, assets and liabilities and investments.
f) No Annual operational plan for the year.
g) Most operations systems were manual and susceptible to loss of data and information.
h) No approved Information Technology (IT) strategic plan and hence the office may not benefit from leveraging on IT.

i) No formal, documented and tested disaster recovery plan/emergency procedure in place and therefore in the event of an emergency, the personnel involved might not be aware of what is expected of them.

Submission by Accounting Officer

The Accounting Officer submitted that:

a) Official Receiver is one of the departments in the office of the OA&DJ. Administratively, we are covered by the internal Audit function of the Office of the Attorney General and DOJ.
b) The Official Receiver is always subjected to the checks by the Audit Committee. This can be confirmed from previous minutes.
c) It is true that was no risk management policy for Official Receiver during the year under review. The department has already formed a departmental committee in conjunction with Administration and planning departments in the office of the Attorney General and Department of justice to work on the risk management policy and the process is underway.
d) The interdepartmental committee established to come up with a risk management policy is currently undertaking to identify key areas of concern. When completed, the document will be availed to the Auditor General for perusal.
e) It is true Official Receiver does not have its own formulated operational manuals. The office has adopted and relied on the Government guidelines from the National Treasury in relation to various processes and controls.
f) It is true the Official Receiver do not have an Annual Operational plan. However, the office relies on the General operational chart provided in the ISO certification. The same is displayed in strategic places in the office.
g) It is true that the Official Receiver has not fully embraced the use of IT services. The IT services are being implemented by the Office of the Attorney General and department of justice. It is expected that it could be operational in the next financial year.
h) It is true that the Official Receiver has not fully embraced the use of IT services. The IT services are being implemented by the Office of the Attorney General and department of justice. It is expected that it could be operational in the next financial year.
i) Yes it is true that during the year under review, there was no approved disaster recovery plan and a documented and tested emergency procedure in place .A departmental committee has been formed to work on disaster recovery plan. Once the official receiver IT system is in place, it will support disaster recovery by replicating the data at remote locations. Currently the department has bought some scanners hence the documents will be scanned and imported into the system. The department has procured external hard discs storages which also help in backup of the documents and data. In addition, networking of official receiver offices is ongoing.

Committee Observations and Findings

The internal control system of the Official Receiver had various weaknesses including: no risk management policy document; no risk assessment carried out to identify and address key areas of concern and document specific controls in response to identified risks; no operating manuals published to guide key processes and controls for receipts from debtors/customers, payments to creditors, personnel, expenditure, assets and liabilities and investments; no annual operational plan for the year; and most operations systems were manual and susceptible to loss of data and information.

Committee Recommendations

The Solicitor-General should put in place measures to address the internal control weaknesses identified by the Auditor-General particularly risk management policy and annual operational plan to guide the operations and key performance indicators for the Official Receiver.

KENYA LAW REFORM COMMISSION

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this commission.

Committee Observations

The Kenya Law Reform Commission received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Accounting Officer and the team at the Kenya Law Reform Commission for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

PUBLIC TRUSTEE

Basis for Qualified Opinion

526. Unsupported Investments

The statement of financial position reflects investments at a cost of Kshs. 253,131,000 as at 30 June 2016 out of which investments of Kshs. 61,736,814.25 were not supported with documentary evidence. Consequently, the accuracy and completeness of the investments balance of Kshs. 253,131,000 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that the total investments as per note No.10 of the financial statements are Kshs. 253,131,000. It is true that investments of Kshs. 61,736,814.25 were not supported with documentary evidence. These are dormant deposits held with various defunct financial institutions currently under the management of KDIC (Kenya Deposit Insurance Corporation) and the Official Receiver and Provisional Liquidator. Financial statements under note No.10, indicates the said investment as part of dormant deposits of Kshs. 164,730,000. However the following deposits have been confirmed as at today through the analysis.

Deposits Under Kenya Deposit Insurance Corporation	
Institution	**AMOUNT**
Middle Africa Finance Co Ltd	12,780,730.00
Trust Bank	1,379,806.29
Trade Bank	12,639,233.05
Thabiti Finance	1,100,356.20
Kenya Finance Bank	29,071,489.10
Prudential Bank Ltd	26,448,952.30
Trade Finance Ltd	11,613,780.75
Inter Africa Credit Finance Ltd	6,108,435.10
TOTAL	**101,142,782.79**
Deposits Held Under Official Receiver & Provisional Liquidator	
Continental Credit Finance	7,625,000.00
Pioneer Building Society	3,000,000.00
Total	10,265,000.00
Shares Held In Banks	**111,407,782.79**

The Office of the Public Trustee has an analysis on remaining balance of Kshs. 53,322,217.31 and is in communication with the Office KDIC (Kenya Deposit Insurance Corporation) and the Office of the Official Receiver and Provisional liquidator to confirm the whole amount of Kshs. 61,736,814.25.

Committee Observations and Findings

The statement of financial position reflected investments of Kshs. 61,736,814.25 which were not supported with documentary evidence. These are dormant deposits held with various defunct financial institutions currently under the management of KDIC (Kenya Deposit Insurance Corporation) and the Official Receiver and Provisional Liquidator.

Committee Recommendations

The Solicitor-General should ensure that the Office of the Official Receiver and Provisional liquidator confirms the whole amount of Kshs. 61,736,814.25. The confirmed and reconciled figure should be submitted to the Auditor-General for subsequent year's audit review.

527. Cash and Cash Equivalents

The statement of financial position indicates cash and cash equivalents' balance of Kshs. 3,652,736,000 as at 30 June 2016. However, bank reconciliation statements reflect various cash transactions which had not been cleared. No reasons have been provided for not clearing the long outstanding bank balances transactions.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs. 3,692,736,000 as at 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there were long outstanding bank balances not cleared in the bank reconciliation as at 30.06.2016. This was occasioned by:

1. Long outstanding unpresented cheques. The reasons were as follows:-

It was true that there were long outstanding unpresented cheques. This was occasioned by bank reconciliation done at the field offices and not processed at headquarters. This created:

i. Cheques drawn to customers but not collected in time,

ii. Cheques collected but not presented by the customers to the bank

iii. In some instances clients return the cheques back to the office when they are stale

iv. Cheques misplaced by clients

The Public Trustee Act authorizes the Public Trustee to pay advances to beneficiaries upon request. This advances are paid inform of cheques. The Office communicates to the clients to collect cheques as and when they are ready. Often, some of our clients fail to pick their cheques, hence long outstanding unpresented cheques in the Cashbook. The cheques in question has so far been cleared as evidenced by the attached bank reconciliation.

However, the Office invariably make follow up on the said unpresented cheques to ensure that they are properly accounted for. This includes calling the customers to collect cheques. The long outstanding unpresented cheques have since been cleared as is evident from the attached bank reconciliation.

2. Long outstanding uncredited cheques

It was true that there are long outstanding uncredited cheques. The long outstanding uncredited cheques have since been cleared as is evident from the attached bank reconciliation.

3. Long outstanding payments in bank not in cashbook

It was true that there are long outstanding payments in bank not in cashbook

The long outstanding payments in bank not in cashbook have since been cleared as is evident from the attached bank reconciliation

4. Long outstanding receipts in bank not in cash book

It was true that there were long outstanding receipts in bank not in cash book. These are monies received from institutions for further administration by the office of the public trustee. The procedure of receiving funds in the Cash book requires that we have name of the deceased and the next of kin details. Until such a time we are provided with the details of the deceased we cannot issue a receipt on the same. An estate file is opened upon identification of surviving heirs, hence outstanding receipts in the cashbook. However, the Office of the Public trustee invariably write to organization requesting for information and particulars of the deceased to facilitate receipting of outstanding receipts.

Long outstanding receipts in bank not in cash book have now been cleared in most of the regions as is evident from the attached bank reconciliation. In Meru region we are in the process of identifying the beneficiaries. The long outstanding balances per station have reduced as shown by the attached bank reconciliation. The filed stations that have so far reconciled the bank accounts as at 30.06.2018 include Nyeri, Malindi, Eldoret, Embu, Machakos, Meru, Garissa, Kisii and Kisumu.

Committee Observations and Findings

There exists long outstanding bank balances not cleared in the bank reconciliation as at 30th June 2016. This was occasioned by various reasons including: long outstanding unpresented cheques; cheques drawn to customers but not collected in time, cheques collected but not presented by the customers to the bank; and cheques misplaced by client.

Committee Recommendations

The Accounting Officer should ensure that the entity keeps complete and reconciled financial and accounting records that comply with provisions of Section 68(2) of the PFM Act 2012 and that the financial and accounting records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012;

28.0. JUDICIARY

FINANCIAL STATEMENTS FOR VOTE 1261

Ms Anne Amadi the accounting officer for Vote 1261 and the Chief Registrar Judiciary appeared before the Committee on Tuesday, 22nd May 2018to adduce evidence on the audited Financial Statements of Vote 1261 Judiciaryfor the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. She was accompanied by the following Officials:

1. **Mr. David Rapando - Chief Finance Officer**
2. **Ms. Nancy Kanyago - Project Coordinator**
3. **Ms. Sharon Mwajuli - Magistrate**
4. **Ronald Wanyama - Ag DARM**

Basis for Qualified Opinion

528. Accuracy and Completeness of the Financial Statements

Examination of expenditure records showed that payments totaling Kshs.7,877,801 made to Jasrise Enterprises and Mima Books Limited on 30 September 2015 and 18 February 2016 were not recorded in the cash book. No explanation has been provided for the omission.

As a result, the accuracy and completeness of the financial statements for the year ended 30 June 2016 could not confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the payments totaling Kshs. 7,877,801 made to Jasrise Enterprises and Mima Books Limited on 30th September 2015 and 18th February 2016 were recorded in the cash book.

Committee observations and Findings

(i) The submission by the Accounting Officer that the payments totaling Kshs. 7,877,801 made to Jasrise Enterprises and Mima Books Limited on 30th September 2015 and 18th February 2016 were recorded in the cash book was not compelling, as there was no alternative evidence in support of the submission.

(ii) The Committee marked the matter was unresolved.

Committee Recommendations

(i) The Accounting Officer (during the period under review) must, within three (3) months of adoption of this report, provide an explanation to the Cabinet Secretary to the National Treasury for to provide and explanation for failure to record payments totaling Kshs. 7,877,801 made to Jasrise Enterprises and Mima Books Limited on 30th September 2015 and 18th February 2016 contrary to the provisions of sections 197(1) (k) and 6 (2) (l) of the Public Finance Management Act, 2012.

(ii) Where the Accounting Officer fails to provide an explanation, the Accounting Officer (during the period under review) should be reprimanded to record payments totaling Kshs. 7,877,801 made to Jasrise Enterprises and Mima Books Limited on 30th September 2015 and 18th February 2016 pursuant to the manner provided under section 74(4)(b) of the Public Finance Management Act, 2012.

529. Cash and Cash Equivalents

The statement of assets reflects cash and cash equivalents' balance of Kshs.291,602,638. However, the following unsatisfactory matters were noted:

a) Status of the unpresented cheques totaling Kshs.191,925,280 was not provided. Further, management did not explain why the cheques were not reversed in the cash book.
b) Analyses of all payments in the bank not yet recorded in cash book totalling Kshs.70,816,142 were not provided for audit verification.
c) Receipts in cash book not yet recorded in bank statement balance of Kshs.20,291,472 were not explained or supported.
d) Receipts of Kshs.6,037,379 in bank statement not yet recorded in cash book were not explained.

In the circumstances, the cash and cash equivalents balance of Kshs.291,602,638 as at 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the statement of assets reflected cash and cash equivalent balances of Kshs.291, 602,638 as at 30 June 2016. The analysis of these is as below:

a). Unpresented cheques totaling Kshs. 191,925,280

i. Recurrent Payments totaling to Kshs. 110,873,307.10.

Recurrent payments totaling to Kshs. 94,715,506.40 were paid at the close of the Financial Year and cleared at the bank on 1st July 2016. The balance of Kshs. 16, 157, 810.70 comprises of errors and payments that did not go through in the bank that has since been reversed.

ii. Development Payments totaling to Kshs. 81,051,973.75.

These payments were paid at the close of the Financial Year June 30th 2016 and cleared at the bank on 5th and 6th July 2016. A bank Statement and Schedule is attached.

b). Payments totaling Kshs. 70,816,142 in the bank statement not recorded in cash book

Payments totaling to Kshs.70, 603,336.00 is composed of fraudulent payments in the bank statement of September 2013. The staff who occasioned these fraudulent payments were charged in court and the case is ongoing.The balance of Kshs. 212,816.00 has now been posted.

c). Receipts totaling Kshs.20, 291,472 in cash book not recorded in bank statement.

Receipts amounting to Kshs. 14,727,113.55 are composed of unspent A.I.Es refunded from the Court stations and deposited into our recurrent account in themonth of July 2016**.** The balance totaling Kshs. 5,564,358.45 is unspent imprest funds which were posted twice and have since been reversed, adjusted and reconciled. Attached are deposits slips showing that the funds were deposited to Judiciary bank account.

Committee observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining unsatisfactory matters noted understatement of assets reflects cash and cash equivalents' balance of Kshs.291,602,638 was compelling and the Accounting Officer should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

530. Pending Bills

The pending bills balance as at 30 June 2016 was Kshs.202,938,501. However, the management has not explained why the pending bills were not paid although there was a cash balance of Kshs.291,602,638 as at 30 June 2016 that was carried forward to the 2016/17 financial year. Further, the pending bills were not supported with contracts, invoices, Local Purchase Orders (LPOs), Local Service Orders (LSOs), Delivery Notes and the Judicial Tender Committee Minutes that authorized the expenditures. In the circumstance, pending bills balance of Kshs.202,938,501 is not justified.

Submission by Accounting Officer

The Accounting Officer stated that the payment vouchers for the pending bills were availed for review.

Committee observations and Findings

(i) The submission by the Accounting Officer that payment vouchers for the pending bills were availed for review was insufficient as it did not offer an explanation as to why the pending bills were not paid although there was a cash balance of Kshs.291,602,638 as at 30 June 2016 that was carried forward to the 2016/17 financial year and the pending bills were not supported with contracts, invoices, Local Purchase Orders (LPOs), Local Service Orders (LSOs), Delivery Notes and the Judicial Tender Committee Minutes that authorized the expenditures.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

531. Irregular and Unsupported Payments

A payment of Kshs.1,028,340 was made to IBIMA KENYA for the 4th annual regional conference on automation of ISO 9000 and Quality Management (QMS) standards held at the North Coast Beach Hotel, Mombasa for five (5) days from 27 May to 31 May 2014. It was observed that nine (9) participants attended the conference and were charged full-board rate of Kshs.98,500 per particular plus Value Added Tax (VAT). However, the contract signed with the hotel, and the attendance register that supported the transactions were not availed for audit verification. Further, the expenditure was incurred in the financial year 2013/2014 and it is not clear why it was not paid in the year it was incurred, or included in the pending bills balance. In addition, Authority to Incur Expenditure (AIEs) totaling Kshs.169,245,845 were expensed under the domestic and travel expenses account instead of actual expenditure and were thus reflected as actual expenditure for the item. Further, the A.I.Es were not availed for audit examination. In addition, examination of the various accounts revealed that payments totaling Kshs.552,347,213 were not supported with payment vouchers. As a result, the propriety of the expenses could not be confirmed. In view of the foregoing, the propriety and value-for-money of the expenditure totaling Kshs.722,719,898 reflected in the financial statements could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that:

i. The Judiciary nominated nine (9) staff members to attend Annual Regional Conference on Automation of ISO 9000 & QMS Standards in Mombasa from 28th to 31st May, 2014. The Accounting Officer approved their attendance. However, payment to M/s IBIMA Kenya was not done before closure of the 2014/15 financial year due to non-provision of all the required supporting documents thus could not be listed as pending bill. The relevant documents were later availed in the financial year and the bill was settled.

ii. The requirement for AIEs is that funds should be disbursed as a commitment. However, Integrated Financial Management Information System (IFMIS) does not have a provision for that, apart from Imprests under Provision for encumbrance account. In this case, the funds were expensed after expenditure through Journals.

iii. The payment vouchers for payments totalling Kshs. 552,347,213 are available for audit review.

Committee observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the propriety and value-for-money of the expendituretotalling Kshs.722,719,898 was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

532. Unexplained Variations on Security Contracts

The Judiciary entered into a contract with Lavington Securities Limited for provision of security services for Judiciary premises in the year 2014/2015 at a total cost of Kshs.22, 291,500. However, the daily security checklists were not attached to the payment vouchers. In addition, the payment for June 2015 was made in September 2015, but it was not listed as a pending bill. In addition, authority to pay was not attached. Further, there were variations in the approved guards list and the list of those paid in some stations.

In the circumstances, the propriety and value for money for the expenditure of Kshs.22,291,500 incurred on hire of security services could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Judiciary had a contract with Lavington Securities Limited for provision of security services for Judiciary premises in the 2014/2015 year at a total cost of Kshs.22,291,500. The guards checklist are always confirmed by the court station and attached on payment voucher and are available for audit review.

It was true that payment for June 2015 was done in September 2015 as the opening of the financial year delayed. The June 2015 payment could not be included in the pending list as the invoice was submitted in July 2015 after service delivery.

Human Resource and Administration Directorate as the user requested for additional guards in various stations depending on the need. The requests were submitted to the Judiciary Tender Committee which approved the variation of the contract.

Committee observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the propriety and value for money for the expenditure of Kshs.22,291,500 incurred on hire of security services was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.
(ii) The Committee marked the matter as unresolved.

Committee Recommendations

(i) Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.
(ii) Accounting Officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

533. Irregular Procurement of 30 Laptops and 40 Computers

Express Automation Limited was paid Kshs.13,486,274 vide voucher No.8054 dated 10 March 2016 for the supply and delivery of 30 laptops and 40 desktop computers vide Contract No.JUD/CON/105/A/2014-15. The goods were received on 9 September 2015 vide Counter receipt voucher No.6585279 while the purchase order No.3507 was raised six (6) months later on 29 February 2016. The payment was not listed as a pending bill at the end of the 2014/2015 financial year. Consequently, the propriety of the expenditure of Kshs.13,486,274 incurred on purchase of the computers cannot be confirmed to have been a proper charge on public funds.

Submission by Accounting Officer

The Accounting Officer stated that they had a binding contract with M/S Express Automation Limited to supply 30 Laptops and 40 computers and therefore there was no need for an LPO. Upon the delivery of goods, an inspection report was submitted on 16th December 2015.The invoice was forwarded to accounts for payment and processing after the inspection. At the time of initiating payment, the IFMIS required that a purchase order be created in the system. This led to accounts department returning the documents to procurement department to create a purchase order in the system. When the document came to procurement the IFMIS system was experiencing technical hitches leading to more delays. The purchase order was later raised in February 2016 and payment done.

Committee observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the propriety of the expenditure of Kshs.13,486,274 incurred on purchase of the computers to have been a proper charge on public funds was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

(i) Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

(ii) **Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.**

534. Social Security Benefits-Judicial Pension Scheme

During the year under review, the Judiciary made remittances totaling Kshs.122,000,000 to the Judicial Pension Scheme. In an internal memo Ref JBT/09/VOL.1 (21) dated 8 September 2009, the Registrar directed the Assistant Director Human Resource to set aside Kshs.122 million per annum for the next fifteen years to cater for the loss caused by the freezing of past service as advised by the Actuary. However, the actuarial report indicating how the amount was computed was not availed for audit review.

In the absence of the actuarial report, the propriety of the expense of Kshs.122 million incurred on remittances to the Judicial pension scheme during the year ended 30 June 2016 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Judiciary made remittances totaling to Kshs.122 million to the Judicial Pension Scheme to cater for the loss caused by the freezing of past service as advised by the Actuary.

Committee observations and Findings

(i) The submission by the Accounting Officer that the Judiciary made remittances totaling to Kshs.122 million to the Judicial Pension Scheme to cater for the loss caused by the freezing of past service as advised by the Actuary was not compelling, as no explanation was presented for failure to avail the actuarial report indicating how the amount was computed for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

(i) The Accounting Officer (during the period under review) must, within three (3) months of adoption of this report, provide an explanation to the Cabinet Secretary to the National Treasury for failure to avail the actuarial report indicating how the amount was

computed for audit review contrary to the provisions of sections 197(1) (k), and 68) & (2) (l) of the Public Finance Management Act, 2012.

(ii) Where the Accounting Officer fails to provide an explanation, the Accounting Officer (during the period under review) should be reprimanded for financial misconduct through failure to avail the actuarial report indicating how the amount was computed for audit review of expenditure of Kshs.122 million to the Judicial Pension Scheme to cater for the loss caused by the freezing of past service pursuant to the manner provided under section 74(4) (b) of the Public Finance Management Act, 2012.

535. Acquisition of Assets and Incomplete Construction Works

535.1 Refurbishment of Mombasa Court of Appeal Building

The Judiciary awarded contract No.Jud/021/2013-14 to Damtax Enterprises of Mombasa on 11 August 2014 for the refurbishment of the Mombasa Law Courts. On 29 August 2014, the contractor wrote to the Judiciary indicating that the contracted tender sum of Kshs.29,140,580 was erroneous and should have instead been Kshs.54,690,580 as tabulated in the Bills of Quantities. However, no explanation was provided on how the error occurred. Although the contract was signed on 11 August 2014, the project site was only handed over to the contractor on 27 November 2014, more than three (3) months later. No explanation has been provided for the delay.

Further on 15 May 2015, six (6) months after the contract commenced, the County Government of Mombasa, in a written submission, complained of poor performance by the contractor. Evidence gathered during the audit indicated that the works were of poor quality.

On 24 September 2015, Damtax Enterprises requested for extension of the completion date by three (3) months effective from 24 September 2015. However, at the time of the audit inspection in the month of November 2016, the contractor was still on site and the works were ongoing. The management has not explained the price variation of Kshs.25,550,000 and the inordinate delay in completion of the project. Further, due to the failure by the main contractor, it is doubtful whether two sub-contracts for electrical and renovation of toilets worth Kshs.10,260,953 and Kshs.2,525,002 respectively would be done. Consequently, the propriety and value-for-money of the expenditure totaling Kshs.54,690,580 on refurbishment of Mombasa Court of Appeal building cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Judiciary awarded contract No. Jud/021/2013-14 to Damtax Enterprises of Mombasa in August 2014 for the refurbishment of the Mombasa Law Courts. The total tender sum of the awarded was Kshs. 54,690,580.00 which was inclusive of the prime cost sum for Mechanical and electrical works which were to be procured separately.

The main contractor (Dantax Enterprises) therefore signed a contract with the Judiciary for Kshs. 29,140,580.00 only and not Kshs. 54,690,580.00 as they had requested. The works were awarded by Judiciary Tender Committee on 7th August 2014 and the contracts signed on 11th November 2014. The contractor was subsequently handed over the site 16 days later on 27th November 2014 hence there was no delay.

The County Government of Mombasa who are the Project Managers had raised concerns with the pace of the contractor and workmanship of the works. Through sustained supervision of the works, the defects were corrected to their approval and the works are now complete.

<u>PICTURES – {Completed Works-Cabro works, Painting works and other finishes)</u>

Committee observations and Findings

(i) The submission by the Accounting Officer that the main contractor (Dantax Enterprises) signed a contract with the Judiciary for Kshs. 29,140,580.00 only and not Kshs. 54,690,580.00 as the Contractor had requested appears to be invariance with matter as raised was not compelling as no evidence was tabled in support.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The Accounting Officer must, within three (3) months of adoption of this report, ensure that they liaise with the Office of the Auditor General and submit evidence supporting its assertion with a view to indicating the appropriate cost of the contract signed between Dantax Enterprises and the Judiciary.

535.2 Narok Law Court

Loima Construction Limited was awarded a tender to construct Narok Law Courts vide tender No.D26 RV/NRK/610/JOB NO.817A at a cost of Kshs.24,984,453 dated on 1 August 2007, and the contract period was for 52 weeks. The contractor was paid the whole contract sum but abandoned the site without having completed the project. As a result, no value was realized on the expenditure of Kshs.24,984,453.

A new tender to complete the works was executed in the financial year 2014/2015 vide tender No.JUD/142/2014/2015 of 22 May 2015 and M/S Resjos Enterprises was awarded the contract at a cost of Kshs.65,194,539 on 22 September 2015.However, physical verification carried out on the site revealed that no works were going on in spite of the award to the new contractor. Further, bore-hole drilling sub contracted to INSTA Pumps Engineering Limited vide NO.JUD/143/2013/15 for Kshs.6,496,900 were yet to be completed by the time of the audit. The completion of the construction works has been delayed by eight (8) years. No plausible explanation has been provided for the delay.

In the circumstances, the propriety and value-for-money of the expenditure of Kshs.90,168,992 incurred on refurbishment of Narok Law Courts could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that Judiciary awarded a tender to M/s Loima Construction Limited for the construction of Narok law court vide tender no. D26 RV/NRK/610/JOB NO. 817A at a tender sum of Kshs. 24,984,453.00.

The contractor completed the superstructure and commenced on the finishes. The Public Works Officer who was the project manager generated a financial appraisal statement that indicated that the cost of the works had exceeded the contract sum mainly due to extra foundations and unforeseen omitted works. They recommended extra funding. The project stalled for 8 years as a result. The contract had also excluded the following works that were crucial to ensure the functionality of the building;

- Electrical and Mechanical Work
- Structured Cabling
- Borehole works
- External Civil Works.
- Boundary wall
- Generator

Through mutual agreement, the project was handed over to the Judiciary on 22nd March 2011.

A fresh tender was executed by the Judiciary in the Financial Year 2014/15 vide tender No. JUD/142/2014-15 held on 22 May, 2015 and M/s Resjos Enterprises was awarded the contract to complete the court at a cost Kshs. 65,194,539.00.

The new contractor commenced the works on 26th August 2015 and the contractor submitted a payment request on 15th June 2016 amounting to Kshs. 15,111,499.80. Due to exchequer challenges, the payment delayed until January 2017 when the contractor was paid and the works resumed.

The contractor had been granted extension of time until 30th June 2017. He has undertaken to complete the works within the revised extension period see a copy of letter for immediate communication attached.

PHASE-I PICTURES {Only frame Completed without finishes}




PHASE-II PICTURES **{**this includes doors, Glazing, Boundary Wall, Landscaping, Borehole and Generator**}**


Phase II was progressing on well but at a slow pace due to exchequer challenges and cut in Judiciary Development Budget resulting into delays in honoring contractor's payment certificates.

Committee observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the delayed of eight (8) years in completion of the construction works and the propriety and value-for-money of the expenditure of Kshs.90,168,992 incurred on refurbishment of Narok Law Courts was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

535.3 Lodwar Law Courts Construction

The Judiciary entered into a contract with Land Mark Company for construction of the proposed High Court in Turkana County and Lodwar Law Courts, under contract No.Jud/40/2012/2013 at a cost of Kshs.814,986,141. The contract commencement date was 30 September 2013 and the expected completion date was 20 April 2015.

However, the contract stalled at 27.7% level of completion in the financial year 2013/2014 after completion certificates amounting to Kshs.124,462,230 were issued and paid. The Judiciary management has not provided documents showing how the contract was awarded, progress of work and measures taken against the contractor for failure to meet contractual obligations and mitigate against escalation of costs.

In the circumstance, value-for-money has not been achieved on the expenditure of Kshs.124,462,230 incurred on the project before it stalled and further, enhanced public services expected from completion of the courts are yet to be realized.

Submission by Accounting Officer

The Accounting Officer stated that it was true that Judiciary entered into a contract with Landmark Company for construction of high court in Turkana County at contract sum of Kshs. 814,986,141. The project commenced on 30th August 2013 and stalled one year later in 2nd July 2014 following the Special Audit on Judiciary and Judicial Service Commission. The details of the contract by the time it stalled were as follows;

Contract Date:	30th August, 2013
Contractor:	Landmark Holdings Limited
Commencement Date:	30th September, 2013
Original Completion Date:	20th April 2015
Revised completion Date:	None
Contract Sum:	Kshs. 814,886,141.00
Amount Paid:	Kshs. 101,294,765.47
Pending Certificate (16/4/2014):	Kshs. 38,784,447.00

After the audit it was seen that there is need to scale down the project as the project scope and cost was considered to be very huge compared with the likely workload in the county. When the judiciary suggested to the contractor the idea of scaling down a dispute arose between the Judiciary and the contractor. The matter is now under arbitration. The Judiciary is therefore awaiting the outcome of the arbitration process before any further intervention is initiated.

Committee observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining there is a dispute with Landmark Holdings Limited relating to scaling down the contract for the construction of a High Court in Turkana County was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.
(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they comply with the principles of public finance to the extent that pubic money shall be used in a prudent and responsible way in compliance with the provisions of Article 201(d) of the Constitution and section 68 of the Public Finance Management Act, 2012.

535.4 Embu Law Courts

The Judiciary contracted M/S Manyata Limited as the main contractor for the construction of a five-story building at a contract sum of Kshs.229, 325,146 through a contract agreement dated 4 December 2014.

Manyata Limited sub-contracted the services to M/S Jufex Auto Hardware Limited and M/S Muga Electrical Contractors Limited of Nairobi for supply, installation, testing and commissioning of plumbing, drainage, fire protection services, water reticulation services and electrical works vide contract agreements dated 28 May 2015 and 3 July 2015 respectively.

The Bills of Quantity (BQ) reflected Kshs.13,040,000 as provisional expenditures to be incurred by the contractor. Payments for the provisional expenditures were to be made upon receipt of expenditure returns filed by the contractor confirming adherence to the various requirements and transparency in handling payments on behalf of other project implementing officers or entities, and further, that stipulated requirements were implemented as stated in the BQ. However, audit review of the provisional expenditures revealed that out of the Kshs.13,404,000 provisional expenditure balance, payments totalling Kshs.9,980,000 had the following anomalies:

i. Although the provisional expenditure included a security provision of Kshs.480, 000 to enable the contractor maintain adequate security, the contractor had only two (2) guards, one at night and the other during the day. These did not seem adequate given the magnitude of work and materials on site. Further, the contractor did not provide provisional expenditure records on how the Kshs.480,000 provided for security in the BQ was spent.
ii. The BQs had a provision for training Ministry of Works technical staff involved in the implementing the project at a cost of Kshs.300,000. However, no documents were made available for audit review to confirm that officers from the Ministry were trained. Further, expenditure returns in respect of the Kshs.300,000 expenditure was not made available for audit verification.
iii. A sum of Kshs.250,000 was provided to pay the Clerk of Works as subsistence allowance. Although this was a conditional provision that had to be adhered to, the expenditure returns and supporting documents confirming adherence to the terms of the contract were not submitted for audit review.
iv. There was a provision of airtime and subsistence allowance for the project management team valued at Kshs.100,000. However, expenditure returns and the airtime distribution register were not filed or submitted for audit review.
v. Subsistence allowances for Ministry of Public Works staff were provided for at Kshs.700,000. However, the provision was not supported by payment schedules and acknowledgements or receipt of funds by all Ministry of Public Works staff involved in the project.
vi. Stationery provision of Kshs.400,000 was made for the Project Manager. However, no expenditure returns in respect of this expenditure has been made available for audit review.
vii. The contractor submitted a number of plants, tools and vehicles that were to be used in the project works and this informed the positive technical evaluation that ranked the contractor as the best evaluated bidder.However, vehicle log books, gate entry and exit registers to confirm that the said items were used at the project site were not submitted for audit review.
viii. Site weather-proof lock-up sheds were provided for in the BQs at a cost of Kshs.500,000. However, audit inspection did not establish the existence of sheds worth the amount

provided. Further, no expenditure returns were filed to support the expenditure of Kshs.500,000 that may have been incurred on the sheds.

ix. The provision for sample costs was stated at Kshs.250,000. However, no documentation or record of samples and costs thereof were made available to confirm that samples were submitted before approval was given by the project engineers.

x. Expenditures of Kshs.450,000 and Kshs.200,000 were budgeted for repair and maintenance of the roads and sanitation respectively. However, no expenditure returns were submitted for audit review.

xi. Physical verification conducted on the cell rooms revealed that two of them were not properly ventilated. This could lead to poor air circulation and pose health risks to inmates.

xii. Water and electricity was allocated Kshs.1,500,000. However, the contractor took over the site on 15 January 2015 but billing for water and electricity began in March and July 2015 respectively hence the Judiciary met the costs before the site take-over.

xiii. At the time of 2014/2015 audit, the contractor was using water and electricity paid for by the client, thereby occasioning double payment of the utilities.

xiv. Insurance was allocated Kshs.3,750,000. However, no insurance policy was submitted for proof of insurance cover and further, payments for insurance premiums were not submitted for audit review.

xv. Training levy was allocated Kshs.450,000. However, Legal Notice No. 237 of October 1971 requires payment of training levy at the rate of 0.25% of the contract sum which translates to Kshs.573,313 leading to an unexplained variance of Kshs.123,313.

xvi. The site agent was allocated Kshs.650,000 but no document was submitted for audit to confirm that the contractor hired the services of a site agent. Further, expenditure returns in respect of payments to the agent were not availed for audit review.

xvii. Several amendments were carried out on architectural design and these included moving the entire 3rd floor to 4th floor, banking hall, the security office was changed to a waiting cell and the location of the reception changed. Even though the changes were discussed at site meetings and agreed upon, they were, however not ratified by the client and other authorities mandated to approve the structural amendments like the National Construction Authority or the County Construction Inspectorate Unit. Further, even the client did not receive official correspondence on the changes among other relevant construction supervisory and procurement authorities to enable them approve the proposed amendments.

In view of the foregoing, the accuracy and propriety of provisional expenditure of Kshs.9,980,000 incurred on construction of Embu Law Courts building as at 30 June 2016 cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the project BQs had a provision of Kshs. 300,000 for training of Ministry of Works technical Staff involved in implementing the project. So far a total of Kshs. 276,830 has been used for staff training.

i. A sum of Kshs.250,000 was provided to pay the Clerk of Works as subsistence allowance. Although this was a conditional provision that had to be adhered to, the expenditure returns and supporting documents confirming adherence to the terms of the contract were not submitted for audit review.

Submission by Accounting Officer

The Accounting Officer stated that out of a sum of Kshs.250,000 provided to pay the Clerk of Works as subsistence allowance, a total of Kshs.227,165 has been paid as supported by the petty cash vouchers.

ii. There was a provision of airtime and subsistence allowance for the project management team valued at Kshs.100,000. However, expenditure returns and the airtime distribution register were not filed or submitted for audit review.

Submission by Accounting Officer

The Accounting Officer stated that it was true there is a provision sum of Kshs. 100,000 for Airtime for the Project Management Team. This is incurred over the contract period and any extended period and the contractor dose not maintain a distribution register but provide airtime as requested by the management team. The expenditure incurred so far as supported by the petty cash voucher is Kshs 300,000.00.

iii. Subsistence allowances for Ministry of Public Works staff were provided for at Kshs.700,000. However, the provision was not supported by payment schedules and acknowledgements or receipt of funds by all Ministry of Public Works staff involved in the project.

iv. **Submission by Accounting Officer**

The Accounting Officer stated that out of the provision sum of Kshs. 700,000 for Subsistence allowance for Ministry of Public Works staff a total of Kshs.783,677 has been incurred as supported by the petty cash voucherwhich also shows acknowledgement of receipt by officers paid.

v. Stationery provision of Kshs.400,000 was made for the Project Manager. However, no expenditure returns in respect of this expenditure has been made available for audit review.

Submission by Accounting Officer

The Accounting Officer stated that it was true that a provision sum of Kshs. 400,000 was made for provision of stationery for the Project Manager. A total of Kshs. 350,000 has been incurred as supported by the petty cash voucher.

vi. The contractor submitted a number of plants, tools and vehicles that were to be used in the project works and this informed the positive technical evaluation that ranked the contractor as the best evaluated bidder. However, vehicle log books, gate entry and exit registers to confirm that the said items were used at the project site were not submitted for audit review.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the contractor submitted a list of a number of plants, tools and vehicles that were to be used in the project works and this informed the positive technical evaluation that ranked the contractor as the best evaluated bidder. The Contractor has provided copies of logbooks indicating the ownership of the vehicles, vibrator concrete mixer and other machineries.

vii. Site weather-proof lock-up sheds were provided for in the BQs at a cost of Kshs.500,000. However, audit inspection did not establish the existence of sheds worth the amount provided. Further, no expenditure returns were filed to support the expenditure of Kshs.500,000 that may have been incurred on the sheds.

Submission by Accounting Officer

TheAccounting Officer stated that the provision sum of Kshs. 500,000 in the BQs is part of the sum for construction of site offices and stores. The contractual condition for payment of these sums is that the construction be made to the satisfaction of the project manager. The project manager is satisfied with site offices and stores.

i. The provision for sample costs was stated at Kshs.250,000. However, no documentation or record of samples and costs thereof were made available to confirm that samples were submitted before approval was given by the project engineers.

Submission by Accounting Officer

The Accounting Officer stated that it was true that Sample cost was stated as Kshs.250,000 in the BQs. The contractor submitted various samples to Ministry Transport and Infrastructure.

ii. Expenditures of Kshs.450,000 and Kshs.200,000 were budgeted for repair and maintenance of the roads and sanitation respectively. However, no expenditure returns were submitted for audit review.

Submission by Accounting Officer

The Accounting Officer stated that it was true that an amount of Kshs. 450,000 and Kshs. 200,000 were budgeted for repair and maintenance of roads and sanitation respectively. These provision sums are to be incurred over the contract period and any extended period and the contractor will account for the expenditure as per Clause 32 of the Contract at end of the project.

iii. Physical verification conducted on the cell rooms revealed that two of them were not properly ventilated. This could lead to poor air circulation and pose health risks to inmates.

Submission by Accounting Officer

The Accounting Officer stated that following site inspection by the project manager a site instruction was issued to the contractor to improve ventilation in the Cell rooms.

iv. Water and electricity was allocated Kshs.1,500,000. However, the contractor took over the site on 15 January 2015 but billing for water and electricity began in March and July 2015 respectively hence the judiciary met the costs before the site take-over.

Submission by Accounting Officer

The Accounting Officer stated that it was true that water and electricity was allocated Kshs 1,500,000. When the contractor took over the site there was no works that required usage of water and electricity for about 3 months since it was just preparation of the site. The contractor eventually connected his own supplies in March 2015.

v. At the time of 2014/2015 audit, the contractor was using water and electricity paid for by the client, thereby occasioning double payment of the utilities.

Submission by Accounting Officer

The Accounting Officer stated that atthe beginning of construction, no electricity was required, therefore there was no double payment of utility bills. The water bill statements for the Law Court and shows the normal usage of water at the law courts for the period of January to May 2015.

vi. Insurance was allocated Kshs.3,750,000. However, no insurance policy was submitted for proof of insurance cover and further, payments for insurance premiums were not submitted for audit review.

Submission by Accounting Officer

The Accounting Officer stated that it was true that Insurance was allocated kshs.3,750,000, this figure is allocated randomly from the percentage of the preliminaries and may not reflect the actual cost of the service. These provision sums are to be incurred over the contract period and any extended period and the contractor will account for the expenditure as per Clause 32 of the Contract at end of the project.

vii. Training levy was allocated Kshs.450,000. However, Legal Notice No. 237 of October 1971 requires payment of training levy at the rate of 0.25% of the contract sum which translates to Kshs.573,313 leading to an unexplained variance of Kshs.123,313.

Submission by Accounting Officer

The Accounting Officer stated that it was true that Training levy was allocated Kshs.450,000 in the BQs instead of the training levy rate of 0.25% of the contract sum as required by Legal Notice No. 237 of October 1971. The 0.25% rate translates to a levy of Kshs. 573,313 which is leads to a variance of Kshs.123,313. When filing out the tender document preliminary cost is allocated on estimate basis, randomly by the tenderers. Any negative variance in one cost item is compensated by a positive variance in another cost item.

viii. The site agent was allocated Kshs.650,000 but no document was submitted for audit to confirm that the contractor hired the services of a site agent. Further, expenditure returns in respect of payments to the agent were not availed for audit review.

Submission by Accounting Officer

The Accounting Officer stated that it was true that Kshs. 650,000 was allocated for a Site Agent. This is a provision sum that is incurred over the contract period and any extended period. The contractor will account for the expenditure as per Clause 32 of the contract at the end of the project.

ix. Several amendments were carried out on architectural design and these included moving the entire 3rd floor to 4th floor, banking hall, the security office was changed to a waiting cell and the location of the reception changed. Even though the changes were discussed at site meetings and agreed upon, they were, however not ratified by the client and other authorities mandated to approve the structural amendments like the National Construction Authority or the County Construction Inspectorate Unit. Further, even the client did not receive official correspondence on the changes among other relevant construction supervisory and procurement authorities to enable them approve the proposed amendments.

Submission by Accounting Officer

The Accounting Officer stated that the alteration of architectural design: These changes were discussed and agreed upon. These amendments were analyzed and forwarded as a Project Financial Appraisal 02/ Provisional Final Account forwarded to the Chief Registrar of Judiciary, Nairobi for ratification vide the Embu County Works Officer's letter Ref. No. MOPW/EC/PRO6/J133/VOL.1/57 dated 26th September 2016.

Committee observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining provisional expenditures with anomalies relating to payments totaling Kshs.9,980,000 was persuasive, no documentary evidence was submitted in support of issues i,ii,vii, viii, x, xi, xiv, and xv on one hand while on the response to issue v is inadequate insofar as it does state whether any gate entry and exit registers to confirm that the said items were used at the project site were submitted for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

535.5 Proposed Supply and Installation of 200 KVA Stand-By Generator

The contract for supply of a generator intended to power the lift and lighting for the proposed five storey Embu Law Courts building was awarded to M/S Masterpiece Electrical Limited at a contract sum Kshs.8,058,350 through a contract agreement dated 28 May 2015. A meeting to inspect and accept the generator was held on 27 May 2015 and the Minutes signed by the Mechanical Engineer. Part Deliveries were made on various dates delivery No. 018 was dated 21 May 2015, delivery No. 019 was dated 26 May 2015 and the last delivery No. 020 was dated 13 January 2016 and the test report was dated 23 January 2015.

It was not clear how a test could be conducted on 23 January 2015 and deliveries done one year later on 13 January 2016.

Further, payment in respect of the generator was made without due regard to capacity to power the lifts. In the event of the generator's failure to power the lifts, then the client may lack adequate avenue for redress.

In the circumstance, it has not been possible to confirm the propriety and value-for money in respect of the Kshs.8,058,350 expenditure incurred on purchase of the generator.

Submission by Accounting Officer

The Accounting Officer stated that it was true a contract for supply of a generator intended to power the lift and lighting for the proposed five storey Embu Law Courts building was awarded to M/S Masterpiece Electrical Limited at a contract sum Kshs. 8,058,350 through a contract agreement dated 28 May 2015. The supplier delivered the generator and necessary parts on the following dates:

i. Delivery No. 018 dated 21/5/2015 - the generator

i. Delivery No. 019 dated 27/5/2015 - the tool box and some spare parts for generator. The parts were presented to the receiving and acceptance committee during the meeting held on the same date.
ii. Delivery No. 020 dated 13/1/2016 - equipment meant for installation of existing power and auxiliary tank for fuel. These were to be delivered when the generator house was complete as they were to be installed in the generator house.

The acceptance meeting was held on 27th May 2015 was to accept the tools and ignite the generator to confirm functionality. The receiving and acceptance committee was duly satisfied that the generator supplied was as per the BQs.

Test report dated 23/1/2015 is a factory performance testing by the manufacturer it is not test performance at the Law Courts. The test performance at the Law Courts was held on 27/5/2015 when generator was ignited and left to run for 20 minutes to test functionality without load and is included in the acceptance committee report.

Payment to the contractor was done after receipt of the Acceptance committee report confirming that the generator meets the specifications. In accordance with the contract retention money has not been released to the contractor therefore judiciary has space for redress if the generator fails to power the lifts.

Committee observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer addressing thepropriety and value-for money in respect of the Kshs.8,058,350 expenditure incurred on purchase of the generator was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.
(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

535.6 Proposed Installation of 2 Passenger Lifts- Embu Law Courts

The Embu High Court contracted the services of M/s Mits Electrical Company Limited to supply and install two (2) lifts at a contract sum of Kshs.13,500,000. The contract was signed on 7 September 2015. However, as at the conclusion of the audit on 4 August 2016, the lifts had not been delivered and no evidence was submitted to explain reasons for the eleven-month delay in supply of the lifts.

Submission by Accounting Officer

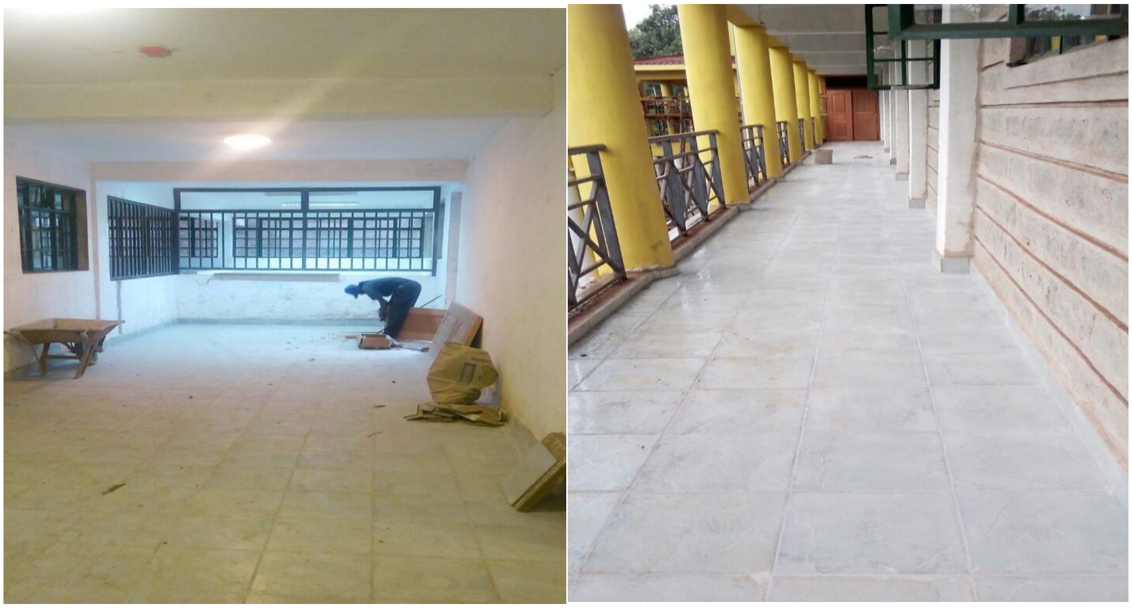
The Accounting Officer stated that they contracted the services of M/s Mits Electrical Company Limited to supply and install two (2) No. lifts at a contract sum of Kshs.13,500,000 vide contract was signed on 7 September 2015. The delay to deliver of lifts was caused by the following:

i. The suppliers of elevators Mitsubishi Electrical Corporation which had been contracted by the supplier declined to supply the elevators without 100% advance payment.
ii. This led to the Mits Electrical Co to seek alternative supplier of lifts, whereby Omega was identified.
iii. The Omega Co had to be approved by the client therefore causing further delay.
iv. Omega Co agreed to supply lifts on condition that they get 20% payment. Mits Electrical Co sought payment from the client, against bank guarantee from Chase Bank.
v. The banker for Mits Electrical Co was Chase bank and upon its going under receivership the supplier had to seek new banks to provide the bank guarantee and finance the supplier.
vi. The manufacture of elevator was done in India for a period of two months.
vii. Once the lifts were manufactured a pre-shipment visit had to be done.
viii. The process of getting pre-shipment inspection delayed due to logistics of approvals and obtaining visa.
ix. After inspection payment has to be done before shipment.
x. Mits Electrical Co is now in the process of shipment for the elevators.

The lifts haves since been supplied and installed.

Embu Law Courts

PROGRESS PICTURES



Committee observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining explain reasons for the eleven-month delay in supply of the lifts by M/s Mits Electrical Company Limited at a contract sum of Kshs.13,500,000 was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.**

(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

535.7 Title Deed for the High Court

The Embu High Court management did not avail for audit review the title deed or other ownership documents showing that the land on which the Embu High Court stands belongs to the Judiciary. Further, management did not provide the most recent update on the progress made, on acquisition of the title documents. As a result, ownership of the land on which the Embu High Court is being constructed could not be confirmed.

In the circumstance, the propriety of the expenditure of Kshs.320,153,007 due to be incurred on construction of the building could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the plot where the court stands has a Part development Plan (PDP) and the Judiciary is in the process to acquire titles for all the court stations countrywide.

The plot where the court building is being constructed is government land where the court has been operating since establishment in 1973 and we have never experienced any dispute to date over land ownership.

Committee observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining the propriety of the expenditure of Kshs.320,153,007 due to be incurred on construction of the building was persuasive but did not indicate whether Embu High Court management availed for audit review the title deed or other ownership documents showing that the land on which the Embu High Court stands belongs to the Judiciary.**
(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

(i) **The Accounting Officer (during the period under review) mustwithin three (3) months of adoption of this report, provide an explanation to the Cabinet Secretary to the National Treasury for failure to provide for audit review the title deed or other ownership documents showing that the land on which the Embu High Court stands belongs to the Judiciary contrary to the provisions of sections 197(1) (k) and 68(2) (l) of the Public Finance Management Act, 2012.**
(ii) **Where the Accounting Officer fails to provide an explanation, the Accounting Officer (during the period under review) should be reprimanded for failure to provide for audit review the title deed or other ownership documents showing that the land on which the Embu High Court stands belongs to the Judiciary pursuant to the manner provided under section 74(4) (b) of the Public Finance Management Act, 2012.**

536. Runyenjes Law Courts

536.1 Travel Costs, Accommodation and Daily Subsistence Allowances

During the year under review, the Principal Magistrate, Runyenjes Law Courts spent a sum of Kshs.389,300 on travelling and accommodation allowances. However, no imprest register was maintained as required by the Public Finance Management Regulations and as a result, the propriety of the expenditure totalling Kshs.389,300 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Principal Magistrate, Runyenjes Law Court spent Kshs. 389,300 on travel and accommodation allowances. A total of Kshs. 268,000 was issued as imprest to the various staff and was surrendered as required by the Government financial management regulations**.** The balance of Kshs. 121,300 was paid to staff as claims for having undertaken the safari before issuance of an imprest which was caused by delay in receipt of AIEs. The imprest register is maintained at Embu East Sub-County Treasury office and is available for audit verification.

Committee observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining the propriety of the expenditure totalling Kshs.389,300 incurred by the Principal Magistrate, Runyenjes Law Courts on travelling and accommodation**

allowances was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed in the issue, management and accounting of imprest pursuant to the provisions of section 68(2)(b) of the Public Finance Management Act, 2012 and Regulations92,93,and94 of the Public Finance Management (National Governments) Regulations, 2015.

536.2 Incomplete Asset Register and Lack of Title Deed

The Judiciary owns buildings and various parcels of land throughout the Country. In addition, the Judiciary owns various assets including vehicles, furniture, computers and other equipment. However, at the time of the audit, the Judiciary was updating its asset register and procuring titles for its parcels of land across the country.

In the absence of title deeds and a complete asset register, the security and ownership of the assets owned by the Judiciary cannot be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that in June 2016, she appointed a committee to develop and automate the Judiciary Asset Register. This is work in progress. In addition, Court Stations have developed an asset inventory to ensure accountability and visibility of their assets. The Asset listing will assist in developing the Asset Register Management System for inventory control, asset and stores management.

Committee observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the Judiciary was updating its asset register and procuring titles for its parcels of land across the country with aim of developing and automating the Judiciary Asset Register was persuasive.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The Accounting Officer should, within six months of the adoption of this report, ensure that the Committee develops and automates the Judiciary Asset Register with a developing the Asset Register Management System for inventory control, asset and stores management to certify accountability and visibility of their assets.

537. Transfer to Semi-Autonomous Institutions

The financial statements reflected a balance of Kshs.659,122,431 as transfers to semiautonomous institutions but which has neither been analyzed nor supported with relevant documents. Further, some of the recipient Ministries did not reflect the transfers in their financial statements. It was therefore not possible to confirm the accuracy, completeness and validity of the balance of

Kshs.659,122,431 reportedly transferred to semi-autonomous institutions during the year under review.

Submission by Accounting Officer

The Accounting Officer stated that the balance of Kshs 659,122,431 in the financial statements indicated as transfers to semi-autonomous institutions has been analysed.

The two (2) semi-autonomous agencies i.e. the National Council for Law Reporting (NCLR) and the Auctioneers Licensing Board (ALB) with a total allocation of Kshs. 273,991,000.00 prepares their own financial statements which are available for audit. The balance of Kshs. 385,131,431 relates to tribunals and NCAJ which are not semi-autonomous agencies who are issued with AIEs and provide expenditure returns at the ended of the financial year. The expenditure returns are available for audit review.

To avoid agencies that do not have independent boards appearing under this budget item the Judiciary has requested Treasury to remove the tribunals and NCAJ from this budget item. The inclusion of these agencies in the budget item was caused by the National Treasury when it transferred the budgets of the tribunals from the mother ministries to Judiciary to conform to the new constitution. The transferred funds were entered into Judiciary's budget under the vote head **"transfers to semi-autonomous agencies"**.

Committee observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer addressingthe accuracy, completeness and validity of the balance of Kshs.659,122,431 reportedly transferred to semi-autonomous institutions during the year under review was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The National Treasury should, within three (3) months of the adoption of this Report, address the matter relating to independent boards appearing under "transfers to semi-autonomous agencies.

REVENUE STATEMENT OF THE JUDICIARY

FINANCIAL STATEMENTS

Basis for Qualified Opinion

538. Financial Irregularities at Kericho Courts

Examination of financial records maintained at the Kericho Law Courts disclosed the following unsatisfactory matters in addition to the issues raised in the certificate issued on 18 April 2016 on the audit of 2014/2015.

538.1 Unaccounted for Court Deposits

Examination of the deposit ledger and other court records indicates that deposits and bonds paid to the court by convicts totaling Kshs.13,579,539 had not been refunded as at 30 June 2015. Further, an examination of bank statement for Deposit Account revealed a balance of Kshs.5,478,737 as at the same date. The resulting difference of Kshs.8,100,802 represents unaccounted for convicts' deposits and bonds.

Submission by Accounting Officer

The Accounting Officer stated that theyacknowledge the difference of Kshs. 8,100,801.65 between the deposit ledger and bank statement for deposit account. The difference represents an accumulated loss for many years which occurred at the district treasury. The management has now delinked the station from the district treasury.

Committee observations and Findings

(i) The submission tabled by the Accounting Officer explaining the difference of Kshs. 8,100,801.65 between the deposit ledger and bank statement for deposit account represents an accumulated loss for many years which occurred at the district treasury and has been delinked the station from the district treasurywas persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as resolved.

Committee Recommendation

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

538.2 Irregular Expenditure

The Chief Magistrate's office procured general office supplies worth Kshs.833,677 during the period under review. However, the following unsatisfactory matters were noted.

(i) There were no requisitions initiated by the user departments detailing the quality and quantity of the stationery required.

(ii) No approvals were made of the requisitions made for the stationery purchased.

(iii) No procurement plan was produced for audit.

The stores purchased were not entered in records contrary to Section 18.2 of the Government Financial Regulations and Procedures and it was therefore not possible to confirm receipt and subsequent usage.

In the circumstances, it was not possible to confirm the propriety of the expenditure of Kshs.833,677.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the procurement of general office supplies worth Kshs. 833,677 during the period under review at the station did not follow proper procurement procedures. The officer who caused this anomaly was a procurement officer based at the station who has since been interdicted and later suspended.

Committee observations and Findings

(i) **The submission tabled by the Accounting Officer explaining the procurement of general office supplies worth Kshs. 833,677 during the period under review at the station did not follow proper procurement procedures and the procurement officer based at the station has been interdicted and later suspendedwas persuasive but no evidence was tabled to support the claims of administrative action have been submitted to the Auditor General for audit review.**

(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

538.3 Bank Reconciliations

The Kericho Law Courts did not prepare bank reconciliation statements for the deposit and revenue cash books as at 30 June 2015 contrary to Section 5.9.2 of the Government Financial Regulations and Procedures. Although it was indicated that monthly bank reconciliation statements had been prepared, none were provided for audit verification.

In view of the foregoing, the accuracy and completeness of the revenue collected, utilized or transferred could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that at the time of Audit the court had not preparing a bank reconciliation statement for the deposit account and revenue Account. This was later prepared. Following strengthening of internal controls, the station undertakes monthly bank reconciliation for all the accounts.

Committee Observations and Findings

(i) **The submission and accompanying documents tabled by the Accounting Officer explaining that at the time of Audit the court had not prepared a bank reconciliation statement for the deposit account and revenue Account was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.**

(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they comply with the principles of public finance relating to financial management and fiscal reporting as set out in the management of public resources in compliance with the provisions of Article 201 of the Constitution and the Public Finance Management Act, 2012.

539. Fraud at Baricho Law Courts

An audit inspection done on Baricho Law Courts confirmed that the Judiciary had lost a total of Kshs.984,080 due to falsification of documents and fraud by the staff based in Baricho Law Courts and no recoveries had been made at the time of audit. Further, a review of the accountable documents maintained revealed that twelve (12) receipt books were missing at the District Treasury at Baricho. In addition, thirty (30) traffic case files were missing including the personal file of the accountant involved in the forgery.

Baricho Law Courts did not maintain a deposit cash book and further, no monthly reconciliation statements were prepared as required. There was no explanation provided as to why Judiciary did not adhere to Section 64 of the Public Finance Management Act, 2012 on revenue collection, management and accountability. It is also not clear why recoveries had not been done by the Judiciary contrary to Section D of Judiciary's Human Resource Policies and Procedures manual of September 2014. In the circumstances, the Judiciary lost funds both through fraud and inertia.

Submission by Accounting Officer

The Accounting Officer stated that the Audit and Risk Management Directorate of the Judiciary carried out an audit on Baricho Law Courts following a letter written by the Regional Assistant Director of Finance, Nyeri region, to the Chief Registrar of the Judiciary referenced RADF/NYR/BARICHO/01/2015, dated 17th March, 2015 that raised concerns on perpetration of fraud at the court station through alteration of receipts. The audit confirmed that indeed there were alterations of receipts totaling KShs.755,530 that were perpetrated by Mr. Josephat M. Kyanguu (PJ No: 47808), an Accounts Assistant, in respect of revenue totaling KShs.744,030.

Mr. Josephat M. Kyanguu was interdicted and the matter was reported to the Directorate of Criminal Investigations for further investigations and prosecution of culprits, and recorded in the OB No.32/30/7/2015 at 1435 hours on 30th July, 2015, at Kerugoya Police Station. However, the DCIO requested for an independent investigation to be conducted. Consequently, the CRJ wrote to the Kenya National Audit Office requesting for a special audit. The Kenya National Audit carried out the Special Audit and came up with the findings as reported.

The report by the Auditor General has since been submitted to the Criminal Investigations office for further investigations. The investigations by the DCIO will cover the loss of twelve (12) receipt books, thirty (30) traffic case files and the personal file of the accountant involved in the forgery.

At the time of the audit, Baricho Law Courts did not maintain a deposits cash book and monthly bank reconciliation statements. This is because the court station operates under the sub county treasury which should have prepared the cash book and bank reconciliation statements. However, following the recommendations of the Internal Audit Report, the court station now prepares its own cash book and monthly bank reconciliation statements. Internal controls have further been strengthened by the Judiciary ensuring that there is close supervision by the Regional Assistant Director of Finance.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining the loss of twelve (12) receipt books, thirty (30) traffic case files and the personal file of the accountant involved in the forgery are under investigation in respect of revenue totaling KShs.744,030 by the Directorate of Criminal Investigations was

persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The Committee urges the DCIO to ensure that it completes its investigations with a view to prosecuting any persons that is identified as having acted contrary to the law.

540. Prior Year Matters

540.1 Discrepancies in Revenue Records

540.1.1 Naivasha Law Courts

Records maintained at the station reflected the amounts of surrender to the Headquarters for court fines and court fees as Kshs.100,923,964.00 and Kshs.11,612,408 respectively.

However, records maintained at the Headquarters had surrenders amounting to Kshs.110,192,341 and Kshs.10,583,445 for court fines and fees respectively. The resulting difference of Kshs.(9,268,377) for court fines and Kshs.1,028,963 for court fees between the two sets of records was not explained or reconciled.

In the circumstances, the accuracy and completeness of the revenue collected and surrendered from Naivasha Law Courts could not be confirmed.

Submission by Accounting Officer

TheAccounting Officer stated that the difference between the station and headquarters surrender amount was caused by the problem of cut-off time where surrenders of previous year maybe recorded at headquarters as collection of this year and the station will record collection which it has not surrendered in this year.

This has now been solved by making sure that at end of every month the balances in revenue account automatically swept to the judiciary revenue collection account and the station surrender the required documents.

Committee Observations and Findings

(i) The submission and accompanying documents tabled by the Accounting Officer explaining that the difference between the station and headquarters surrender amount was caused by the problem of cut-off time where surrenders of previous year maybe recorded at headquarters as collection of subsequent year and the station will record collection which it has not surrendered in the subsequent year was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

540.1.2 Eldoret Law Courts-Fines and Fees

An audit inspection at Eldoret Law Courts indicated that fines collected in the financial year 2014/2015 totaled Kshs.51,984,727. However, the amount of fines surrendered at Headquarters totaled Kshs.38,070,330 resulting in an unexplained difference of Kshs.13,914,397.

Further, the revenue collection control sheet number 0192365 collected two different amounts of Kshs.522,360 and Kshs.1,537,475. In addition, the amount of fees collected could not be confirmed as revenue collection control sheets and surrenders were not made available for audit review.

Consequently, the amount of fines and fees collected and surrendered from Eldoret Law Courts could not be ascertained.

Submission by Accounting Officer

The Accounting Officer stated that the fines collected at Eldoret Law Courts during the 2014/15 financial year was KShs.38,070,330 as analyzed in the table below and revenue collection schedule maintained at the Judiciary headquarters and not KShs.51,984,727.00 as reported in the audit finding.

MONTH	FINE AMOUNT COLLECTED
July 2014	1,148,880.00
August 2014	2,712,125.00
September 2014	9,051,088.00
October 2014	8,716,848.00
November 2014	0
December 2014	7,596,845.00
January 2015	2,154,395.00
February 2015	1,007,350.00
March 2015	1,049,940.00
April 2015	1,624,105.00
May 2015	1,331,424.00
June 2015	1,677,330.00
TOTAL	**38,070,330.00**

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the fines collected at Eldoret Law Courts during the 2014/15 financial year was Kshs.38,070,330 as analyzed in the revenue collection schedule maintained at the Judiciary headquarters and not Kshs.51,984,727.00 was persuasive, however it did not explain the reason for failure to avail revenue collection control sheets and surrenders in respect to the amount of fees collected and surrendered from Eldoret Law Courts for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

Other Matter

541. Weak Internal Control

It was observed that the Baricho Court station did not maintain a list of authorized staff to collect accountable documents including case files for the station, an indication that there is no segregation of duties.

Submission by Accounting Officer

The Accounting Officer stated that following the recommendations of the Internal Audit Report and Special Audit report by Office of the Auditor General, internal controls have been strengthened by the Judiciary and also ensuring that there is close supervision of the station by the Regional Assistant Director of Finance.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer stating that internal controls have been strengthened by the Judiciary and also ensuring that there is close supervision of the station by the Regional Assistant Director of Financewas compelling.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they are responsible for the management of the entity's assets in a way which ensures that the national government entity achieves value for money in acquiring, using and disposing of those assets pursuant to the provisions of section 72(1) of the Public Finance Management Act, 2012.

542. Budget Analysis

Item	Estimates (Kshs)	Actual (Kshs)	Variance (Kshs)	%
Fees on use of Goods/Services	3,986,871,177	838,002,748	3,148,869,429	79%
Fines, Penalties and forfeitures	1,479,260,850	1,470,054,680	9,206,170	0.6%

It is not clear and Judiciary has not explained what caused the huge discrepancies in the fees on use of Goods/Services revenue collection figure of Kshs.3,148,868,429 as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer stated that the fees on use of goods/services is revenue collected as court fees, the huge decline collection of court fees in 2015/2016 was due to clearance of election petitions cases in the previous year. Election petition cases attract higher court fees.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the fees on use of goods/services is revenue collected as court fees, the huge decline collection of court fees in 2015/2016 was due to clearance of election petitions cases in the previous year was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

DONOR FUNDED PROJECTS THE JUDICIAL PERFORMANCE IMPROVEMENT PROJECT

Basis for Qualified Opinion

543. Acquisition of Non-Financial Assets

543.1 Lack of Title Deeds and Valuation

Audit review of eight (8) construction projects at various stations valued at Kshs.1,021,423,949 financed by the Project revealed that the construction projects were being under-taken on parcels of land that have no title deeds. The Judiciary therefore did not have absolute ownership of the land on which the buildings were being constructed. As a result, the ownership and valuation status of these parcels of land could not be confirmed.

Submission by Accounting Officer

The Accounting Officer stated that the construction projects are being carried out on existing Judiciary land and have allotment letters for the same. The issue of title was being pursued by the management and have written to National Lands Commission to fast track the same.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the construction projects are being carried out on existing Judiciary land and have allotment letters for the same and titles were being sought from the National Lands Commissionwas compelling however no evidence to support the submission was tabled for audit review.
(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The Accounting Officer should, within three (3)months of the adoption of this report table a report before Parliament indicating the status of the process of acquisitions of land titles for the eight (8) construction projects at various stations valued at Kshs.1,021,423,949.

543.2 Incomplete Construction Works

543.2.1 Construction at Nyando and Muhoroni Law Courts

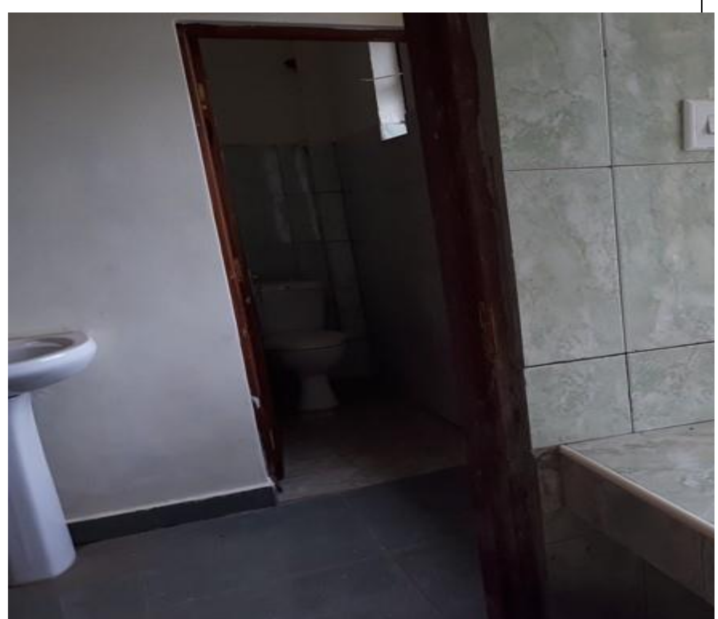
The Judiciary entered into a contract for the proposed rehabilitation works and ancillary services for Nyando and Muhoroni Law Courts. The contracts were competitively offered to Phillmark Systems at a contract sum of Kshs.74,827,121 and Kshs.74,902,949 respectively. The contract commencement dates were 4 September 2017 for Nyando and 8 June 2016 for Muhoroni which was later revised to 2 January 2017 for Nyando and 8 October 2016 for Muhoroni. However, these two contracts were observed to be behind schedule by 30 weeks even after the extension of the contract period. Further, information gathered from correspondences dated 23 November 2016 by the contractor and addressed to the Chief Registrar of the Judiciary, indicated some kind of misunderstanding between the contractor and the consultant which if not addressed may lead to delays or stalling of the contracts.

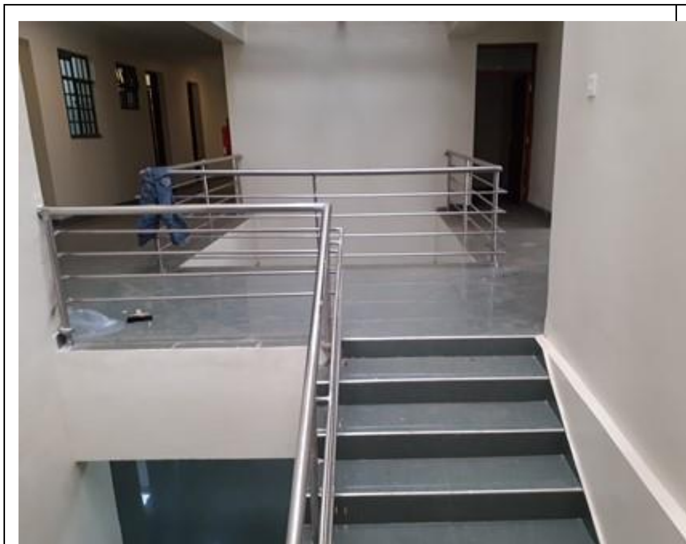
As per the contractor, the valuation certificate No.5 dated 29 September 2016 for an amount of Kshs.5.2 million had not been released by the project architect as at the time of audit leading to delayed payments and delayed completion of works. Consequently, there was a risk of costs escalating or projects stalling if the matters are not addressed.

Submission by the Accounting Officer

The Accounting Officer stated that all construction projects are being carried out on existing Judiciary land and have allotment letters for the same. The issue of title is being pursued by the management and have written to National Lands Commission to fast track the same.

NYANDO LAW COURTS



MUHORONI LAW COURTS

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the construction projects are being carried out on existing Judiciary land and have allotment letters for the same and titles were being sought from the National Lands Commissionwas compelling however no evidence to support the submission was tabled for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Within three months of the adoption of this report, The Accounting Officer should, within three (3) months of the adoption of this report, table a report before Parliament indicating the status of the process of acquisitions of land titles for the eight (8) construction projects at various stations valued at Kshs.1,021,423,949.

543.2.2 Nyamira Law Courts

The Judiciary entered into a contract for the proposed rehabilitation works for the existing court buildings and ancillary services at Nyamira Law Courts Station which was awarded to M/s J N Investments Limited at a contract sum of Kshs.118,305,748. The contract commencement date was agreed as 18 June 2015 with original completion date supposed to be 17 June 2016. However, the contract period was extended to 19 December 2016. The original contract duration was supposed to be 52 weeks (12months) which was extended by an additional 24 weeks. Minutes of a meeting held on 26 October 2016, reflect that the amount of work done was indicated as 65% complete. As at the time of audit inspection in November 2016, the construction was still ongoing. Although the works were noted to be satisfactory, there was no indication that the project's revised completion date of 19 December, 2016 will be met as the 35% may not be done in one month.

In the circumstances, the projects' objectives may not have been attained and value for money may not be realised due to the implementation delays.

Submission by Accounting Officer

The Accounting Officer stated that it was true that the Judiciary entered into a contract with M/S J.N Investments Ltd for the rehabilitation works and ancillary buildings for Nyamira Law Courts.

It was also true that the project could not be completed by 19th December, 2016 but the works are progressing well and is currently 90% complete. It was partially handed over to Judiciary on 17th November, 2017 and full handover is expected by the end of May, 2018.

The project objectives have been met as the Judiciary is using the completed section. Also value for money will be attained as the project will be completed within the budget.

NYAMIRA LAW COURTS.

Committee Observations and Findings

(i) **The submission tabled by the Accounting Officer explaining that the project could not be completed by 19th December, 2016 but the works were at 90% completion, there was partial hand over to Judiciary on 17th November, 2017 and full handover is expected by the end of May, 2018, the Judiciary is using the completed section and that the project will be completed within the budget was persuasive.**

(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

544. Unsupported Expenditure

The Judiciary entered into a contract with Colour Print Limited for printing 103 000 copies of the Law Reports under Judicial Performance Improvement Projects (JPIP) vide Tender

No.JPIP/NCB/02/2013-2014. The expected supplier was notified on 24 July, 2014 and contract signed on 21 August, 2014. The expected delivery period was 35 days after approval of the final proof/sample and the expenditure was provided for in 2013/2014 fiscal year. Delivery no. 83173 for 1684 copies was done on 21 August 2015 through invoice No.79330 dated 20 August 2015 with an amount of Kshs.2,780,288 that was paid one year later. Even though the Judiciary availed documents on the intended parties for distribution of the printed reports, there was no evidence of the number of law reports received in the stores, distributed and received by the targeted groups. Further, no explanation was given for the delay in the delivery of these law reports.

Submission by Accounting Officer

The Accounting Officerconfirmed that the contract for printing services was budgeted for in the FY 2013/14. However due to delays in delivery of the services, the budget was rolled over the FY 2014/2015. She also confirmed that deliveries were made to the Kenya Law and a distribution list availed.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the contract for printing services was budgeted for in the FY 2013/14 but due to delays in delivery of the services, the budget was rolled over the FY 2014/2015, deliveries were made to the Kenya Law and a distribution list availed for audit reviewwas persuasive.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

545. Undelivered Computer Equipment

The Judiciary through the Judiciary Performance Improvement Project (JPIP) entered into contract No.ICB No. JPIP/02/2013-2014/2 with Computech Kenya Limited for the supply of computers and related accessories at a contract sum of USD 161,536.10.

A scrutiny of the payment voucher revealed that the Judiciary paid Kshs.13, 686,493 as per delivery notes no’s 7122, 6821 and 6850 for supply of 92 Laptops i5, 4 laptops i5 and 50 laptops i7. At the time of the audit, 36 tablet computers whose cost was USD 11,677.68 had not been delivered. In the circumstances, the propriety and value for money of the expenditure of USD.11,677.68 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer confirmed that 36 tablet computers had not been delivered to the Judiciary by the Contractor at the time of the audit. In this regard, the project management has taken steps to terminate the contract for supply of the 36 tablet computers. A request to terminate the contract was submitted to the Judiciary Tender Committee (JTC) on 20 September 2016. The contract was latter terminated by the JTC. There is no risk for money being lost for the non-delivery of the computers.

Committee Observations and Findings

(i) **The submission tabled by the Accounting Officer explaining the Judiciary Tender Committee (JTC) terminated of USD.11,677.68 the contract for supply of the 36 tablet computers worth USD.11,677.68 as payment had not been disbursed was compelling however no evidence was tabled in support of the submission for audit review.**

(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

546. Undelivered Motor Vehicles

As earlier reported in Paragraph 236 of the report of the Auditor-General, for the Financial Year 2014/2015, the project awarded a contract to CMC for supply of motor vehicles on 02 April 2014 at a cost of Kshs.14,600,000. The contract was awarded to Global Fleet Sales Company of Thailand. However, the delay in delivery occasioned ineligible penalties of Kshs.20,645,562. Eventually, the vehicles were delivered but the Ministry of Public Works gave their inspection report long after the vehicles were registered contrary to the practice where vehicles are inspected before registration.

In addition, an Initial Memo dated 6 June 2016 indicated that the vehicles were meant to be distributed to Moyale, Maralal, Wajir and Mandera. However, S13 forms were not made available for audit review to ascertain that the vehicles were delivered to the expected destinations.

In the circumstances, the Judiciary has not realised value for money from the ineligible expenses of Kshs.20,645,562 and the cost of the undistributed vehicles of Kshs.14,600,000.

Submission by Accounting Officer

The Accounting Officer confirmed that all the thirteen vehicles were delivereddistributed as per the needs of the Judiciary.

Committee Observations and Findings

(i) **The submission tabled by the Accounting Officer that all the thirteen vehicles were delivered and distributed as per the needs of the Judiciary was inadequate insofar as it did not indicate whether S13 forms were not made available for audit review to ascertain that the vehicles were delivered to the expected destinations for audit review.**

(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

(i) **Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.**

(ii) **Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its**

functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

Other Matter

547. Underutilization of Budget Allocations

The statement of comparative budget and actual amounts reflects a final budget of Kshs.2,259,103,000.00 and actual on comparable basis of Kshs.1,010,717,110 leading to an under-utilization by Kshs.1,248,385,890 or 55% of the total budget. It is therefore not clear whether the project will achieve its intended objective.

Submission by Accounting Officer

We agree that there was underutilization of budgeted funds caused by several reasons including long procurement process for court constructions/rehabilitation work, case management projects implementation, and delay in opening up of IFMIS at the start of the Financial Year and delays by implementing units in commencing their activities.

Management anticipates better absorption as fifteen court constructions were ongoing; six courts will be handed over soon and eight are on various procurement stages. Management has also taken the necessary steps like enhancing the capacity of implementing units to ensure efficiency and implementation of the project activities.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that there will be better absorption as fifteen court constructions are ongoing, six courts will be handed over in the near future and eight are on various procurement stageswas agreeable to the Committee.
(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must at all times ensure that they prepare annual cash flow which shall be broken down into three months rolling basis and shall be adjusted to reflect any implementation realities in consultation with the National Treasury pursuant to the provisions of regulation 44 (3) of the Public Finance Management (National Government) Regulations, 2015.

29.0. ETHICS AND ANTI-CORRUPTION COMMISSION

FINANCIAL STATEMENTS FOR VOTE 1271

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this commission.

30.0. NATIONAL INTELLIGENCE SERVICE

FINANCIAL STATEMENTS FOR VOTE 1281

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of the National Intelligence Service.

INTELLIGENCE SERVICE DEVELOPMENT FUND

FINANCIAL STATEMENTS FOR VOTE 1281

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of this fund.

31.0. DIRECTORATE OF PUBLIC PROSECUTIONS

FINANCIAL STATEMENTS FOR VOTE 1291

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of the Directorate of Public Prosecutions.

Committee Observations

The Directorate of Public Prosecutions received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Accounting Officer and the team at the Office of the Directorate of Public Prosecution for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year.

32.0. COMMISSION FOR THE IMPLEMENTATION OF THE CONSTITUTION

FINANCIAL STATEMENTS FOR VOTE 1301

Mr. Kennedy Ogeto, the accounting officer Office of the Attorney General and Department of Justice appeared before the Committee on Tuesday, 26th February 2019 to adduce evidence on the audited Financial Statements of Vote 1301Commission for the Implementation of the Constitutionfor the Financial Year 2015/2016. This was because the Commission is defunct. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied bythe following Officials:

1. **Ms. Clare Omolo - Secretary Administration**
2. **Mr. Kenneth Gathuma - Ag. Director General BRS**
3. **Mr. W. Masinde - Chief Finance Officer**
4. **Mr. Francis C. K. Maina - Ag. Director CISCOS**
5. **Mr. P. Thoithi Kanyuira - DCSC**
6. **Mr. Benjamin Oyile - Deputy Secretary**
7. **Ms. Concepta Wasilwa - Chief State Counsel**
8. **Mr. Erastus Mbalu - BRS**
9. **Mr. Elijah Kabiru - SAAG**

Basis for Adverse Opinion

548. Presentation of Financial Statements

(i) Chairman's Statement

Review of the financial statements for the Commission for the Implementation of the Constitution (CIC) revealed that the Chairman's statement was missing from the financial statements contrary to the financial reporting template prescribed by the Public Sector Accounting Standards Board.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the financial statements for CIC did not have the statement from the Chairman contrary to the financial reporting template prescribed by IPSAS. This was an omission that is highly regrettable. However, we wish to submit that by the time the financial statements were being signed for onward transmission to relevant offices the Chairman of the Commission was not available to present his statement as he was engaged outside the country on official assignments. In the circumstances the statement of commission responsibilities of which the chairman is a member was considered sufficient as it gives commission assertions on the completeness and accuracy of the financial statements. Nevertheless, efforts have been made to reach the chairman and have his statement so that it can be attached to the financial statements as appropriate.

Committee Observations and Findings

The financial statements for CIC for the FY did not have the statement from the Chairman contrary to the financial reporting template prescribed by the Public Sector Accounting Standards Board (PSASB) as provided for in Section 192 (1d) of the PFM Act, 2015;

Committee Recommendations

The Accounting Officers should always ensure that the financial statements prepared and submitted to the Auditor-General have the statement from the Chairman and in compliance with the financial reporting template prescribed by the Public Sector Accounting Standards Board (PSASB) as provided for in Section 192 (1d) of the PFM Act, 2015

(ii) Contingent Liabilities

The financial statements do not disclose the potential contingent liability of Kshs. 1,216,058.00 that could arise from the cases filed against the Commission. In view of the foregoing, the financial statements for the period ended 26 February 2016 do not comply with International Public Sector Accounting Standards (IPSAS)

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the financial statements did not disclose the potential contingent liability of Kshs. 1,216,058.00 that could not have arisen from cases filed against the Commission. This non-disclosure was felt prudent as the nature of the liability had low probability of the loss actually going to happen in the near future. In other words, the contingent liability was 'remote' and chances are that there was no similar case that has ever been successful thus the reason for excluding it in the financial statements.

Committee Observations and Findings

The financial statements for the FY 2015/2016 did not disclose the potential contingent liability of Kshs. 1,216,058.00 that could have arisen from the cases filed against the Commission;

Committee Recommendations

The Accounting Officers should at all times make full disclosures in the financial statements including reporting on contingent liabilities such as possible risk of loss of public funds that may be occasioned by court cases.

549. Unapproved Over Expenditure

The summary statements of the appropriation account for the period under review indicate that the approved budget for the Commission was Kshs. 312,040,000 while the actual expenditure was Kshs. 314,978,622 leading to an unapproved over-expenditure of Kshs. 2,938,622. Consequently, the Commission did not operate within its approved budget estimates.

Submission by Accounting Officer

The Accounting Officer submitted that the over expenditure of Kshs. 2,938,622.00 was caused by funds received from UNDP to CIC for use in the areas of printing and publishing. The UNDP channelled the funds directly to CIC although the funds were not reflected in CIC budget.

Committee Observations and Findings

The approved budget for the Commission in the FY 2015/2016 was Kshs. 312,040,000 while the actual expenditure was Kshs. 314,978,622 leading to an unapproved over-expenditure of Kshs. 2,938,622. The unapproved expenditure was occasioned by direct channeling of the funds from UNDP to CIC hence was not reflected in the approved budget of CIC.

Committee Recommendations

Accounting Officers should regularize the excess expenditure by seeking post-factor approval so as to ensure there is compliance with the PFM Act 2012.

550. Irregular Repair of Motor Vehicle

The Commission's vehicle VW Passat GK A129Y was involved in an accident along Waiyaki way on 10th August 2012, and after the incident, the vehicle was towed to the police station by Intermotors Enterprises. The police carried out investigations and the driver was charged with careless driving offence and convicted by the Court. It was noted that after Intermotors towed the car they repaired it without authority at a cost of Kshs. 178,292.00 paid vide PV No. 1270 dated 29 December 2015. In addition, the following anomalies were noted:

i. There were no quotations raised and hence it was not possible to confirm that the Commission received value-for-money on the repairs;
ii. The Local Service Order (LSO) No. 1044616 was issued on 11 May 2015 despite the invoice having been received two years earlier on 24 July 2013; and
iii. There was no evidence of inspection done to confirm that the repairs were carried out.

As a result, the propriety of the expenditure totaling Kshs. 178,292 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that a new CEO assumed office in 2014. Having reviewed the financial status of Commission, he noted accumulating trend of the pending bills. He directed the formation of the pending bills committee in 2015 to review and advise where payable. The CEO noted that Intermotors Enterprise had threatened to sue the Commission for non-payment. On the basis of the threat and in a bid to reduce the period to be settled the claim was paid. A payment voucher number 1270 of 29/12/2015 is enclosed together with quotation from various garages, and a police abstract together with an inspection report.

Committee Observations and Findings

(i) **The Commission incurred cost of Kshs. 178,292.00 paid vide PV No. 1270 dated 29th December 2015 as an expense for repair of motor vehicle VW Passat GK A129Y by Intermotors Enterprises who towed the vehicle from scene of accident and subsequently repaired it without authority of the Commission;**

(ii) **The Accounting Officer directed the formation of the pending bills committee in 2015 to review and advice on pending bills including Intermotors Enterprise which had threatened to sue the Commission for non-payment. The Accounting Officer made the payment to Intermotors Enterprise on the basis of quotation from various garages, and apolice abstract together with an inspection report; and**

(iii) **The Accounting Officer delayed in issuing Local Service Order (LSO) No. 1044616 which was issued on 11th May 2015 despite the invoice having been received two years earlier on 24th July 2013**

Committee Recommendations

Accounting Officers should ensure there is promptness in responding to service providers and suppliers. Further, suppliers and service providers should only provide services after express permission from a procuring entity in line with the PPAD Act 2015.

551. Outstanding Imprests

Outstanding imprest as at 31 December 2015 totaled Kshs. 10,468,016 out of which Kshs.9,872,048 were under investigation by the police. Further, seven officers left the Commission without surrendering imprest totaling Kshs. 525,168 at the close of the mandated period. Apparently, the Commission did not recover the imprests from the officers before they left employment, contrary to the Public Finance (National Government) Regulations, 2015.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that imprest totalling to Kshs. 825,168 remained outstanding for the seven officers who had left the Commission. Those imprest had not been recovered from the officers before they left employment with the Commission. Nevertheless, efforts had been made to recover the imprest by writing demand letters from CEO to various offices asking them to settle the same. Demand letters are available in the officer's personal files to confirm the efforts of recovery.

Committee Observations and Findings

(i) **Imprest totalling to Kshs. 825,168 remained outstanding for the seven officers who had left the Commission. Those imprest had not been recovered from the officers before they left employment with the Commission.**

(ii) **The Accounting Officer committed an offence by failing to recover the temporary imprest from the defaulting officer as provided for in Regulation 93(7) of the PFM (National Government) Regulation 2015**

Committee Recommendations

The Accounting Officer should,within three (3) monthsof adoption of the report, take steps to recover the outstanding imprest totalling Ksh. 825,168 from the concerned persons.

552. Uncleared Pending Bills

Pending bills reported in the winding up committee report totaled Kshs. 4,816,734.40 while the financial statements reflect a balance of Kshs. 3,505,451 thus resulting in an unexplained variance of Kshs. 1,311,284. Further, it is not clear why the bills were not paid yet the Commission had sufficient funds to pay the balance. In the circumstance, the accuracy and propriety of the pending bills' balance of Kshs. 3,505,451 could not be ascertained.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that there were pending bills totalling to Kshs. 3,505,451 as reported in the winding up report committee reports. He informed the committee that at the time of winding up the CIC had bank balance of Kshs. 16,000.00 in to Central Bank of Kenya. This forced the Commission to apply for more funding through the supplementary Estimates. However, with the closure of the financial year 2015/2016 coupledwith mass transfers of accountants and procurement officers the processing of payments was disrupted thus making it difficult to clear all the pending payments despite the availability of funds.

Committee Observations and Findings

The Commission incurred pending bills totalling to Kshs. 3,505,451 as per its winding up report committee reports.

Committee Recommendations

The Solicitor-General as the Accounting Officer for the Office of the Attorney General and Department of Justice shouldwithin three (3) monthsof adoption of the report, ensure that a budgetary provision is made for the clearance of these pending bills after scrutiny.

553. Unaccounted for Assets

The Commission procured assets costing Kshs. 1,332,481 towards the closure of the financial year. These included mobile phones, iPads and laptops. The items were categorized as office furniture and general equipment in the financial statements but the Commission did not provide explanations as to why they were procured a few days to the closure of the year. In addition, payment vouchers for the purchases were not made available for audit review. Consequently, the location, safety, custody and valuation of the unaccounted for assets could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the said equipment was procured towards the closure of the year. This was occasioned by delayed procurement process and exchequer issues hence making the defunct commission to clear all the outstanding bills to avoid complaints and legal battles from suppliers which could have arisen after the winding up of the CIC.

Not all the Assets at the disposal of defunct CIC were handed over to the Office of the Attorney General and Department of Justice (OAG&DoJ) as the Intergovernmental Relations Agency took over the premises before all the assets could be removed and started utilizing the same assets. However, the few that were retrieved by the OAG&DoJ through the winding up committee are as per report prepared to that effect. All the vouchers pertaining to the purchase of the equipment mentioned above were handed over.

Committee Observations and Findings

The Commission procured assets including mobile phones, iPads and laptops costing Kshs. 1,332,481 towards the closure of the financial year. The location, safety, custody and valuation of the assets have not been confirmed.

Committee Recommendations

The DCI should, Within three (3) monthsof adoption of the report, investigate and if found culpable recommend for prosecution Mr. Joseph N. Kosure the then Accounting Officer for failure to manage assets and liabilities of the defunct Commission in line with the provisions of Section 72 of the PFM Act 2012.

554. Un-disclosed Information in Winding up Report

The Commissions winding up report revealed the following:

a. The cash balance reported as banked by the Commission was Kshs. 1,003,225 while the financial statements reflect a balance of Kshs. 4,140,717. Further, Page 22 of the report indicates the amounts in various bank accounts operated by the Commission and handed over to the committee as totaling Kshs. 3,443,282. No reconciliation has been provided for the three differing balances.
b. There is no evidence that the Commission's assets were received and taken on charge by the State Law Office and Department of Justice as expected. The assets were instead taken over by the Inter-Governmental Relations Technical Committee (IGRTC) without a formal transfer from the Office of the Attorney General and Department of Justice. The disorderly transfer exposed the assets to risk of loss.

Submission by Accounting Officer

The Accounting Officer submitted that there may be no evidence that the Commission's Assets were received and taken on charge by the State Law Office and Department of Justice as expected. However, it should be appreciated that discussions on how commission assets will be change hands were alive during the period by winding up Committee and Resolutions were arrived at for smooth handover for all the Assets and Liabilities. Winding up report is available for confirmation and verification of the same.

Committee Observations and Findings

The Commission in its winding up report indicated cash bank balances of Kshs. 1,003,225 while the financial statements reflected a balance of Kshs. 4,140,717. The resultant difference of Kshs. 3,137,492 has not been explained. Further, the report indicated the amounts in various bank accounts operated by the Commission and handed over to the committee as totaling Kshs. 3,443,282. No reconciliation has been provided for the three differing balances.

Committee Recommendations

(i) , The Solicitor-General as the Accounting Officer for the Office of the Attorney General and Department of Justice should, within three (3) monthsof adoption of the report, ensure that a reconciliation of the cash bank balances is done and report submitted to the Auditor-General for audit; and

(ii) Within three (3) months after adoption of the report, The DCI should,within three (3) months after adoption of the report, investigate and if found culpable recommend for prosecution Mr. Joseph N. Kosure the then Accounting Officer for failure to manage and properly hand over assets and liabilities of the defunct Commission in line with the provisions of Section 72 of the PFM Act 2012

555. Unresolved Previous Year Issues (2014/2015)

a) Unauthorized Excess Vote

The Commission's statement of receipts and payments for the year ended 30 June 2015 reflects expenditure totaling Kshs. 349,780,096 compared to an approved budget of Kshs. 306,000,000. No evidence was availed to support the approval of the over expenditure by National Assembly.

As a result, the Commission had incurred an unauthorized Excess Vote of Kshs. 43,780,096.00.

Submission by Accounting Officer

The Accounting Officer submitted that it was true that the Commission statements on receipts reflect excess to an excess Vote of Ksh. 43,780,096.00. The Commission did not request for the approval because the money came direct from UNDP. The agreement was signed by Treasury, Commission and the Donor. The Commission could have sought for the approval should we have deemed it necessary. The Commission would like to confirm that the expenditure was incurred in accordance with the Government regulations. The expenditure was also audited by external auditors appointed by UNDP and the Commission was issued with a clean bill of health.

Committee Observations and Findings

(i) The explanation of the Accounting Officer that the Commission did not request for the approval because the money came direct from UNDP was not satisfactory for the reason elucidated within this paragraph. The agreement was signed by Treasury, Commission and the Donor, thereby making the funds public monies under Regulation 74(1) of the

Public Finance Management (National Government) Regulations (2015). Further, Regulation 73(2) provides that all grants and donations shall be appropriated by National Assembly before commencement of disbursements. Accordingly, the Committee observed that the funds were not appropriated by the National Assembly contrary to regulation 74(2) of the PFM (National Government) Regulations (2015) and the expenditure was not incurred in accordance with the Government regulation.

(ii) The Accounting Officer during the period under review was secretary to the Commission, Joseph. N. Kosure. The matter relating to the Unauthorized Excess Vote remains unresolved

Committee Recommendations

(i) The Cabinet Secretary National Treasury should invoke power assigned under section 13(1) (d) of the Public Finance Management, 2012 to compel Joseph. N. Kosure to provide within three months after adoption of this report, the basis for making a payment totaling Kshs 5,291,190 used for the purported procurement of advertising and flowers;

(ii) Where there is no satisfactory explanation provided to the CS National Treasury and Auditor General within the stipulated time, Joseph. N. Kosure should be investigated with a view to prosecute for financial misconduct relating to incurring expenditure on behalf of that entity without lawful authority contrary to section 197(1) (h) of the Public Finance Management Act, 2012; and

(iii)The DCI is directed to carry out an investigation relating to the payment totaling Kshs 5,291,190 used for the purported procurement of advertising and flowers with a view to establishing whether there was a breach of law and initiating prosecution against any person found culpable.

b) Cash and Cash Equivalents

Examination of the bank statements and bank reconciliation statements revealed unexplained and unresolved long outstanding items as follows:

No.	Description	**Central Bank of Kenya (Kshs)**	**KCB A/C (Kshs)**
1.	Payments in cashbook not in bank	11,192,330	3,464,548
2.	Payments in Bank not in cashbook	4,609,233	2,423,137
3.	Receipts in cashbook not in bank	10,001,113	2,903,479

Consequently, the accuracy and validity of cash and cash equivalents' balance of Kshs.6,806,944, could not be confirmed.

Committee Observations and Findings

The Auditor General confirmed that this matter had been resolved as reconciliations had been done.

BANK RECONCILIATION STATEMENTS

Central Bank of Kenya

The Accounting Officer submitted that it was true that payments in the cashbook not in the bank totalling to Kshs,11,192,330.64 has been so far cleared remaining with a balance of Kshs.251,294.10 as at February,2016 occasioned by lack of enough funds at the time of winding up of the defunct commission.

The Attorney General's office is now in the process of clearing all the outstanding payments within the shortest time possible.

It was also true that payment in bank not in cashbook totalling Kshs. 4,609,233.40 has been outstanding in the bank reconciliation statement for a while now due to misplaced paid documents within the defunct CIC accounts and procurement offices. However, we have managed to follow up the procurement department and suppliers as well in retrieving Liaison Media Group amounting to Kshs. 2,900,000 leaving with a balance of Kshs. 3,256,837 which we are in the process of clearing in the shortest time possible.

It was true that receipts in cashbook not in bank statements totalling 10,001,113.00 were outstanding occasioned by delay in Exchequer credit in the CBK Account despite receipts in the cashbook which has now been cleared through the February, 2016reconciliation (updated Bank reconciliation available for confirmation)

KENYA COMMERCIAL BANK

It was true that payment in cashbook not in bank Statement were totalling Kshs.3,464,548.00 which we have now cleared fully.(Copy of February,2016 attached overleaf).

It was true that payment in bank not in cashbook were Kshs. 2,423,137.00 which we have managed to clear and remained with a balance of Kshs. 1,117,811.58 as at February, 2016.

Sir, we are now in the process of retrieving the outstanding items within the shortest time possible.

It was true that receipts in cashbook not in bank were Kshs. 2,903,479.00 which have now managed to clear appropriately.

It was true that the bank reconciliation revealed long outstanding items. These have so far been cleared as per attached bank reconciliation statement.

Committee Observation and Finding

The Committee noted the submissions of the Accounting Officer and the matter was marked as resolved.

Committee Recommendation

Accounting officers must ensure that they submit the financial statements not later than three months after the end of each financial year to the Auditor-General pursuant to the provisions of section 81(4)(a) of the Public Finance Management Act, 2012

c) Outstanding Imprests and Advances

The statement of assets reflects an outstanding imprest balance of Kshs. 32,941,671 as at 30 June 2014. However, the Commissions imprest records reflected a balance of Kshs. 11,235,309 as at 20 January 2015 which some remained outstanding beyond the due dates. No reason has been provided for the failure by the Commission to have the imprests recovered from the salaries of the imprest holders. Considering that the Commission's term ended by 31 December 2016, recovery of these imprests appears doubtful.

Submission by Accounting Officer

The Accounting Officer submitted that the Commission had appeared before PAC in December, 2015 and responded. As at the end of the Commission on 29th December, 2015 the case was still under police investigation and could not issue a report until they have concluded on the investigation exhaustively.

Committee Findings and Observations

The Accounting Officer had submitted documents relating to Kshs.11, 235,309.00 for audit review and verification. 2. The matter was marked as resolved.

Committee Recommendation

Accounting officers must ensure that they adhere to the provisions guiding the management of imprest under regulation 93 of the Public Finance Management Act, 2012.

d) Fraudulent Procurement of Goods and Services

The statement of receipts and payments as at 30 June 2014 reflects expenditure totaling Kshs.232,015,419 under use of goods and services which includes a figure of Kshs.44,170,578 in respect of printing, advertising and information supplies and services. During the previous year (2014/2015), the Commission paid Kshs.9,200,000 to a supplier vide payment voucher No.1104 dated 22 April 2014 (Kshs.6,000,000) and payment voucher No.1288 (Kshs.3,200,000) for purported newspaper supplements, video, photography and media mobilization. The payments were made despite the following irregularities:

i. The Local Service Order (L.S.O.) No.088968 that was used to pay the sum of Kshs. 6,000,000 did not belong to the Commission.
ii. There was no evidence of the method of procurement followed by the Commission or that of the tender committee in sanctioning the procurement process.

iii. Payment voucher No.1288 and supporting documentation used to pay the sum of Kshs.3,200,000 were not presented for audit review as the voucher was reported to be missing.

The Commission had however, indicated that the matter was reported to the Police Criminal Investigations Department (CID) (OB/43/12/2014) for further investigation and recovery of the monies. However, the total sum of Kshs. 9,200,000 had not been recovered as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer submitted that it was true the Commission appeared before PAC and responded to this question, however the report has not been exhaustively been cleared with the police hence the matter can only be addressed when police clear the same.

Committee Observations and Findings

The Committee observed that the police had taken inordinately long to resolve the matter.

Committee Recommendations

(i) The Accounting Officer should institute measures to ensure that the agency always acts promptly on the Auditor General's management letters to forestall audit queries;

(ii) The DCI should conclude investigations of this matter expeditiously; The Cabinet Secretary for the National Treasury a policy framework for wind up commissions that addresses pertinent public finance matters for smooth handing over.

33.0. REGISTRAR OF POLITICAL PARTIES

FINANCIAL STATEMENTS FOR VOTE 1311

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of the Registrar of Political Parties.

Committee Observations

The Registrar of Political Parties received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Accounting Officer and the team at the Registrar of Political Parties for maintaining financial statements that present fairly, in all material respects, the financial position as at 30th June 2016, and of its operations for the year then ended, in accordance with the IPSAS-Cash Basis and comply with government financial regulations and procedures and the PFM Act, 2012.

POLITICAL PARTIES FUND

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this fund.

Committee Observations

The Political Parties Fund received an unqualified opinion in the FY 2015/2016 which is commendable.

Committee Recommendations

The Committee commends the Accounting Officer and the team at the Political Parties Fund Secretariat for maintaining financial statements that present fairly, in all material respects, the financial position of the Fund as at 30th June 2016, and of its operations for the year then ended, in accordance with the IPSAS-Cash Basis and comply with government financial regulations and procedures and the PFM Act, 2012.

34.0. WITNESS PROTECTION AGENCY

FINANCIAL STATEMENTS FOR VOTE 1321

Unqualified Opinion

There were no material issues noted during the audit of the financial statements of the Witness Protection Agency.

35.0. KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

FINANCIAL STATEMENTS FOR VOTE 2011

Dr. Bernard Mogesa, the Accounting Officer for Vote 2011, Kenya National Commission on Human Rightsappeared before the Committee on 29th May 2018 to adduce evidence on the audited Financial Statements of Vote 2011Kenya National Commission on Human Rights for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **Ms. Wambui Gathathi - Deputy CEO;**
2. **Mr. Bernard Wamwaya - Finance Manager**

Basis for Qualified Opinion

556. Unsupported Cash-In-Transit

As disclosed in note 22A to the financial statements, the bank balances of Kshs.63,735,113 reflected in the statement of assets as at 30 June 2016 are net of cash in transit amounting to Kshs.3,715,167. However, no sufficient documentary evidence has been provided in support of the amount. As a result, the completeness and accuracy of the bank balances of Kshs.63,735,113 could not be ascertained.

Submission by Accounting Officer

TheAccounting Officer stated that the analysis of the KShs. 3,715,167 was as detailed below:

i. KShs. 3,562,499.70 on this account are amounts for refunds that were received from various sources (Action Aid, CIC Insurance, Network of African National Human Rights Institutions, Imprest surrenders).The amounts were banked in our Kenya Commercial Bank Account and should therefore have been charged to Other Income Account instead of Cash in Transit. This has since been recognized as Other Income in our accounts for 2016/2017 financial year.

ii. In the cash in transit account were mis-postings to various expense accounts totaling to KShs. 376, 438. The relevant correction journals were made at the close of the 2016/2017 financial year.

iii. The balance of KShs. 223,771.80 were expenses paid from our Kenya Commercial Bank Account which were to be claimed from the Central Bank Account. These amounts were also claimed from the Central Bank Account and hence cleared from the cash in transit account.

Committee Observations and Findings

(i) The Committee observed that the bank balances of Kshs.63,735,113 reflected in the statement of assets as at 30 June 2016 are net of cash in transit amounting to

Kshs.3,715,167. There was no sufficient documentary evidenceprovided in support of the amount.

(ii) In the cash in transit account were mis-postings to various expense accounts totaling to Kshs. 376, 438. The relevant correction journals were made at the close of the 2016/2017 financial year.

(iii)The balance of KShs. 223,771.80 were expenses paid from our Kenya Commercial Bank Account which were to be claimed from the Central Bank Account. These amounts were also claimed from the Central Bank Account and hence cleared from the cash in transit account.

(iv)The documents were presented to the Auditor General for verification.

36.0. INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2031

Mr Ezra Chiloba, the Accounting Officer for Vote 2031, Independent Electoral and Boundaries Commission appeared before the Committee on 26th March 2018 to adduce evidence on the audited Financial Statements of Vote 2031Independent Electoral and Boundaries Commission Rights for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **Amb. Paul Kurgat – Commissioner;**
2. **Ms. Margret Mwachanya – Commissioner;**
3. **Mr. Osman Ibrahim - Director Finance;**
4. **Ms. Decima M'mayi - Director Research and Development;**
5. **Mr. Mahamud Jabane – Ag. Director Legal and Public Affairs;**
6. **Ms. Immaculate Kassait - Director Voter Registration;**
7. **Mr. James Muhati - Director ICT;**
8. **Ms. Milcah Chebosis - Ag. Director Supply Chain Management;**
9. **Mr. M.O. Hassan - Manager Administration;**
10. **Mr. Andrew Limo - Manager Communication;**
11. **Mr. Rasi Masudi – Director Voter Education and Publicity;**
12. **Mr. Patrick Nyakari – FA;**
13. **Mr. Jason Akoyo - Manager Budget; and**
14. **Mr. Moses Kipchogen - Personal Assistant to CEO**

Basis for Qualified Opinion

558. Biometric Voter Registration (BVR) System Vendor Support and Maintenance Services

The statement of financial performance as disclosed in Note 9 to the financial statements reflects Kshs.245,145,000 against other operating expenses which includes a figure of Kshs.152,623,000 described as contracted technical services of which Kshs.141,282,554 includes payments in relation to biometric system vendor support and maintenance services. However, the following anomalies were noted: -

558.1 Award of Contract

Examination of Tender No. IEBC/02/2014-2015 together with Minute Number 43/20132014 of the tender committee meeting held on 11 June, 2014 reveals that the Commission approved the direct procurement of BVR system vendor support and maintenance services. A negotiation team was appointed on 9 October 2014 and reviewed on 11 November 2014 when the membership changed. The Committee which was mandated to negotiate terms of reference engaged the vendor and recommended award of the contract at Euro 1,399,000 (equivalent to Kshs.157, 224,237).

Submission from Accounting Officer

1. The history of the support and maintenance contract can be traced back to the original contract for the supply and installation of Biometric Voter Registration (BVR) System in

relation to the 2013 general elections. That original contract was entered into through the Government-to-Government contract between Kenya and Canadian Commercial Corporation (CCC). The contract was to enable the Commission register voters by capturing their biometric details. In the end, the Commission was able to register 14.3 Million of voters who participated in the 2013 General Election.

2. The BVR system is a complex technology. Like other complex systems, the BVR system required specialized maintenance services that would ordinarily be provided by the vendor/supplier. This is achieved through Service Level agreement (SLA) stipulating how the supplier of the system will support the Commission to guarantee availability, reliability, version upgrades and enhancements over the period of the contract. By normal standards, the supplier would provide 2nd and 3rd level support.

3. Under the original contract, parties agreed that the Commission would enter into a separate support and maintenance contract with the supplier at the end of the warranty period. The warranty period ended in October 2013. Accordingly, in January 2014, the user department made a requisition for the direct procurement of support and maintenance services from Safran Morpho see attached Terms of reference.

4. On 30th May 2014 the User Department provided further justification for direct procurement and indicated that the available was approximately Ksh 17 million. The Tender Committee approved the direct procurement on 11th June 2014 under Min 7/43/2013-2014which was 6 months later.

5. On October 9, 2014, the Accounting Officer appointed a negotiation committee to negotiate with the vendor. However, the Negotiation Team was reviewed on November 11, 2014 after it emerged that some of the members in the team were either members of the Tender Committee or staff from the Audit Directorate. In other words, there was potential conflict of interest. We believe that the Accounting Officer made the right decision in reviewing the names of the Negotiation Committee.

6. The Negotiation Committee concluded its task on 21st November 2014. The report was adjudicated by the Tender Committee and recommended award on June 10, 2015. The Tender Committee recommended the award of a One-Year support and maintenance contract to the vendor at a cost of Euro 1,399,000 (equivalent to Kshs. 157,224,237).

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining the reason that the Commission approved the direct procurement of BVR system vendor support and maintenance serviceswas persuasive and should have been presented to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

558.2 Cancellation and Re-award of Contract

Tender Committee minutes for a meeting held on 7 October 2015 indicate that the recommended award contract was cancelled due to lack of funds and also due to the fact that the Commission wanted to revise the scope of service. The same tender was re-introduced before Tender Committee on 8 October 2015 under a separate tender number. The Tender Committee approved direct procurement for BVR vendor support and maintenance services through Min No. 06/9/2015 – 2016 of a meeting held on 13 October, 2015. Another Tender Processing Committee appointed in November, 2015 recommended on 7 December, 2015 that the tender be awarded to the same company at Euro 4,569,260 (equivalent to Kshs.513, 508,493) spread over a period of five years.

Submissions by Accounting Officer

The Accounting Officer stated that:

1. It was factual that Tender No. IEBC 2/2014-2015 was cancelled on October 7, 2015. This was done in accordance with the Public Procurement Act, 2005. It is worth noting that from the date the requisition was made in January 2014, it took 18 months for the procurement process to conclude resulting in the award of the Tender in June 2015 – just 20 days before the closure of the financial year.
2. Owing to the long period in the processing of the tender, it was obvious to the Commission that a number of factors had changed; factors that would have affected the execution, effectiveness and efficiency of the resulting contract from the terminated tender. The following were key factors:-
    a. The Procurement commenced in 2013/2014 (i.e. the requisition was done in January 2014) and recommended for award by the Tender Committee in 2014/2015 (10th June 2015). The initial budget available was KES 17 Million as provide for in the FY 2013/2014. This budget had been overtaken by event. In 2014/2015 additional funds were provided through Supplementary Estimates II **on June 28, 2015**, two days to the closure of the Financial Year. Given the delays in release of funds, it was impossible for the Commission to meet its obligations within the two days before the closure of the financial year.
    b. At the time the Commission commenced the procurement through the cancelled tender, it was also evident that the Canadian Commercial Corporation (CCC) had not been approached for an express "no-objection" for the Commission to directly request services from Safran Morpho. Upon review of the Contract, the Commission thought it wise to obtain the authorization. Refer to correspondences. Annex (1) (g) and 1(h).
    c. During the 18 months, it was established that the BVR system was not functional after the expiry of the original contract in October 2013. This had hampered Continuous Voter Registration (CVR). At the same, there had been a change of management in the ICT directorate and as a result, there was need to establish the functional status of the BVR system by undertaking a comprehensive technical assessment and audit to inform the necessary intervention. At this point in time, we considered this to be the most professional approach.
    d. The technical assessment was conducted in the month of September 2015. The resultant report was used to inform the scope of the required intervention. Further, the

Commission had approved a plan to carry out Mass Voter Registration (MVR) campaign in February 2016. This was to be taken into consideration when negotiating for support and maintenance.

3. The factors above led to the development of new terms of reference/technical specifications; the basis of a new tender No. IEBC 2/2015-2016. After following procurement procedures, the Tender Committee recommended the award of a Five-Year Support and Maintenance Contract to Safran Morpho at a total cost of Euro 4,569,260 (Kshs. 513,508,493).
4. As per the law, the first Tender No. IEBC 2/2014-2015 was terminated before initiation of Tender No. IEBC 2/2015-2016 following due process.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the Tender Committee approved direct procurement for BVR vendor support and maintenance services through Min No. 06/9/2015 – 2016 of a meeting held on 13 October, 2015 at Euro 4,569,260 (equivalent to Kshs.513, 508,493) pursuant to findings made in a technical assessment was persuasive and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

558.3 Vendor Support

Information and records availed indicate that the rates submitted by the Vendor in separate contracts varied as follows: -

(i) In the 2012 Contract, the Vendor Support amount was Euro 254,004 per annum.

(ii) In the cancelled tender of 2013, the Vendor amount was Euro 316,000 per annum**.**

Finally the contract for the Vendor support was awarded at Euro 746,049 per annum.

Although the Commission has explained that vendor support is important in realizing the benefits of the huge investment in the BVR system, the basis upon which these rates were determined has not been explained.

In view of the matters disclosed above, it is evident that the contract contents were altered contrary to the requirements of Article 227 (1) of the Constitution of Kenya on fairness, equity, transparency, competitiveness and cost effectiveness. Consequently, it is not possible to confirm the adequacy of the procurement procedures and controls in relation to this tender award.

Submissions from Accounting Officer

The Accounting Officer stated that:

1. It was not factual that the initial contract of 2012 that the support and maintenance cost was €254,004. Upon review of documentation, the support and maintenance referred to in the contract, totals to Euros 608,477 over a maximum 3 months.
2. Paragraph 8.4 of the contract clearly stated the Commission would enter into a separate support and maintenance contract upon expiration of the warranty (1 year).
3. Differences in the Scope of the two Tenders, please see Table 1 below

Table 1: Differences in the Scope of the two Tenders

Tender	Scope
TENDER IEBC 2/2014-2015	The scope of the 2014 Tender included: - 1) Section 1 - Technical assistance and knowledge transfer -1 Year Onsite Technical Assistance (Support) - Training Components 2) Section 2 - Modifications of the existing system 3) Section 3 - System maintenance and Support (**1 year Maintenance**)
TENDER IEBC 2/2015-2016	The Scope of the 2015/2016 Tender included: - 1) Repair and improve the central site system functionality 2) BVR Training/Skills transfer 3) Systems (application) enhancements and modifications 4) Provision a long term maintenance plan or proposal (Annum recurrent cost) System change + training + **5 years maintenance**

a) **2014/2015** – 1 year; 3 components
b) **2015/2016 - 1** year (5-year frame work); 4 components.
c) The cancelled Tender 2014/15 had two items of Support and Maintenance under SECTION 1 and SECTION 2 respectively whereas the current Tender 2015/2016 had a consolidated cost of support and Maintenance under SECTION 4.

4. **Pricing Overview**

Table 2 (a): One Year Period (Tender No. IEBC 2/2014-2015)

Item No	**Item**	**PRICE (Euros)**		
		Standard price	**Discount**	**Total Price**
1	**Section 1 – Technical assistance and knowledge transfer (1Year)**	**821,900**	**57,900**	**€764,000**
	1 training courses on BVR KIT maintenance.	14,000		***Training Component €34,400***
	1 training Courses of AFIS verification and Investigation	6,800		
	1 training Courses on update and update validation	6,800		
	1 training courses on data preparation and lists generation modules	6,800		
	1- year onsite technical assistance and on-the-job knowledge transfer (4 months intensive with Morpho expert team for phase 2 + 8 months standard with I-Solutions System Administrators for phase 3) covering: i. Hand-in-hand daily work with the IEBC ICT team to make sure that the system administration tasks and procedures are understood, acquired and applied correctly on all the aspects of the BVR System (incl. security, network, data management) ii. Guidance when the ICT team is faced with various operational issues - guidance and advice about best practices to operate and manage the BVR System iii. Assistance in reinstalling and reconfiguring an equipment which is part of the System if it had to be repaired or replaced after a breakdown - assistance in monitoring the security and audit trail of the BVR System	787,500		***Support & Maintenance***

Item No	Item	PRICE (Euros)		
		Standard price	**Discount**	**Total Price**
2	**Section 2 - Modifications of the existing system**	**510 000**	**111 000**	**399 000**
	Modifications of the existing system to make the following functions available: ▪ New data preparation and lists generation tools ▪ New update and update validation modules ▪ User interface for data export ▪ Data cleansing tool to be used between elections ▪ Tool to add new polling stations or modify their names ▪ Tool to add new polling stations or modify their names ▪ Tool to generate the electoral mapping to be loaded into the BVR kits ▪ Tool to generate the voters' database to be loaded into the BVR kits			
3	**Section 3 – System maintenance and support (1 Year)**	**540,000**	**224,000**	**316,000**
	Software maintenance and support to address incidents caused by System's malfunctions			
TOTAL PRICE (EUROs)		**1,871,900**	**392,900**	**1,479,000**
Discount for the trade- off of 19 ASA 5505 Cisco routers			**80,000**	**80,000**
FINAL TOTAL PRICE (Euros)		**1,871,900**	**472,900**	**1,399,000**

NB: The Support and Maintenance cost under the cancelled contract is:-

SECTION 1: Support & maintenance	Euros 764,000	
Less Training components		(34,400)
SUB -TOTAL		729,600

Add SECTION 3	316,000
Total support & maintenance	1,045,600

5. Table 2 (b): One Year Period (Tender No. IEBC 2/2015-2016)
6. That the description of Support and Maintenance under Tender number IEBC/02/2014-15, that was cancelled, did not include the Technical assistance component already costed under *Section 1 Technical Assistance and knowledge transfer*.
7. In essence the support and maintenance cost should have comprised of the *Section 3 – Systems maintenance and Support (1 Year)* and part of section 1 costs - *Section 1 Technical Assistance and knowledge transfer*.
8. This is what was also distinguished in the revised terms of reference of Tender No. IEBC/02/2015-16. The revised tender also sought to correct this duplication.
9. **Using Table 1(a) the Cost of Support and Maintenance for the cancelled tender was Euros 1,045,600 whereas the cost of the current Tender is Euros is 746,049 by implication the Commission was able to save up to Euros 299,551 under the new tender**
10. Table 4 below, demonstrates the price comparison of the respective contracts for the BVR System since 2012.

Table 3: Support and maintenance cost comparisons since 2012

	YEAR	STATUS/CONTRACT	PRICE IN EUROS	DURATION	COMMENTS
1.	2012/2013	Initial Support and Maintenance (see Contract Annex 1A	**63,501** **544,976**	3 Months installation support 30 days support	No support and maintenance contract but only a warranty
2.	2013/2014	Tender No. IEBC 2/2014-2015 (Cancelled Tender)	**1,045,600**	1 year	Price for new contract not guaranteed
3.	2015/2016	Current Tender Tender No. IEBC 2/2015-2016	**746,049**	1 Year	Price guaranteed for 5 years (679,000 Y4 & Y5)

11. It's clear that the current per year cost is cheaper than the previous Years as follows: -

a)	2012/13	- No support and maintenance contract but only warranty
b)	2014/15	- Euros **1,045,600**

c) 2015/16	- Euros 746,049

12. From the analysis above, there is value for money in the current contract as compared to the two previous Support and maintenance proposals.
13. Proper authorization and due process was followed in the negotiation of the current contract.

Committee Observations and Findings

(i) That the 1st contract was a Government to Government contract between the Canadian Commercial Corporation(CCC) and The Government of Kenya through the Ministry of Finance and IEBC on the other hand.

(ii) That after the expiry of the Warrant with CCC, the Commission entered a fiveyear service contract on support and Maintenance of Biometric Voter Registration (BVR) system with Safran Morpho.

(iii)The submission of the Accounting Officer that contract contents were altered to incorporate support and maintenance components to ensure that the contract in accordance with the requirements of Article 227 (1) of the Constitution of Kenya was cost effective was reasonable and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(iv)The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

559.1 Irregular Payment of Legal Dues, Arbitration & Compensation

The Commission as at 30 June 2013 had outstanding pending bills relating to legal fees totaling Kshs.1,054,889,115 summarized as follows: -

Description	**Amount (Kshs.)**
Legal Fees- Presidential Petition	568,612,359.00
Legal Fees- Other Petitions	486,276,755.50
Total	**1,054,889,114.50**

However, a sample test of sixty-eight (68) advocates that the Commission instructed to represent them reveals that they have been paid Kshs.2,145,632,115 as part of the pending bills since 30 June 2013. The procurement and payments of these private legal services were without the prior approval or concurrence of the Attorney General contrary to Section 17 of the Office of the Attorney Act No.9 of 2012 and Article 156 of the Constitution. The Commission has not provided documentary evidence of cases represented and payments thereof to justify and support payments in excess of recorded pending bills.

In addition, the audit has established that letters of instructions were signed and owned by the Director of Legal Services and not on behalf of the Commission contrary to Section 8.16.4 on External Communication as specified in the Commission's Human Resources and Administration Policies and Procedures Manual, revised in June 2014.

Submissions from Accounting Officer

The Accounting Officer stated that:

1. The Commission recognized legal fees pending bills of Ksh 1,054, 889,114.50 in the financial statement as at 30th June 2013. These were the fee notes which had been raised and received by the Commission as at 30th June 2013 as either interim fee notes for ongoing cases or final fee notes for determined cases.
2. The law requires that all election petitions be determined within six months upon declaration of the results. Most of the cases were concluded after the end of the financial year 2012/13 and hence legal fees expenditure of an amount higher than the accrued pending bills of Ksh.1, 054,889,114.50.
3. Furthermore, some cases were referred to appeal courts and the fee notes in respect of the appeals were only issued after the determination of the appeals. This further resulted into additional legal fees. In addition, new cases cropped up during the intervening period including those related to commercial transactions and other civil cases, party list cases which arose after publication of the results of party list elections amongst others.
4. The list of the cases which were either paid or were filed from 2013 to June 2016 and payments for the same period is hereto attached as Annex 2A. The respective files are also available.
5. The Constitution of Kenya, 2010 as well as the IEBC ACT, 2011 provides that the Commission is expected to function independently and without the direction or control of any person or authority in accordance with Article 250 of the Constitution.
6. The Office of the Attorney General is primarily the Chief Legal advisor to Government; the head of the executive is always a candidate for elections which could be the subject of litigation in Court. The Attorney General's position in legal matters may not necessarily be congruent with that of the Commission. Thus obtaining of approval from the office of the Attorney General would amount to surrendering the independence of the commission. Nothing however precludes the Commission from seeking the opinion of the Attorney General as anticipated in Section 29 of the IEBC Act on any of its processes but such opinion is not binding on the Commission.
7. In addition, the audit has established that letters of instructions were signed and owned by the Director of Legal Services and not on behalf of the Commission contrary to Section 8.16.4 on External Communication as specified in the Commission's Human Resources and Administration Policies and Procedures Manual, revised in June 2014.
8. It is true that some of the instruction letters have not been signed 'for the Chief Executive Officer' as anticipated in the Human Resources and Administration policies and Procedures Manual.

9. However, the commission has since taken corrective measures and all letters are signed appropriately by the CEO or on behalf of CEO.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining the fee notes which had been raised and received by the Commission as at 30th June 2013 as either interim fee notes for ongoing cases or final fee notes for determined cases hence the variation in the pending bills amounting to Kshs.2,145,632,115 and further, that letters of instructions were not were erroneously signed in the name of the Director of Legal Services on behalf of the Commission contrary to Section 8.16.4 on External Communication as specified in the Commission's Human Resources and Administration Policies and Procedures Manual, revised in June 2014was persuasive. However, no explanation was presented as to why the Commission has not provided documentary evidence of cases represented and payments thereof to justify and support payments in excess of recorded pending bills for audit review.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

The relevant investigative agencies under the law should carry out investigations relating to the propriety of the expenditure of Kshs. 1,054, 889,114.50 incurred for irregular payment of legal dues, arbitration & compensation with a view to instituting appropriate legal action against any person established to be culpable.

559.2 Use of Law Firms that were not prequalified

The Commission paid Kshs.17,756,345 to five (5) law firms that were not prequalified and were single sourced contrary to Sections 78 to 85 (1)(b) of the Public Procurement and Disposal Act, 2005.

Submissions from Accounting Officer

The Accounting Officer stated that the Commission used the prequalification lists of other public entities as is permissible under section 32 of the now repealed Public Procurement and Disposal Act, 2005 which states, 'To identify qualified persons a procuring entity may use a pre-qualification procedure or may use the results of a pre-qualification procedure used by another public entity''. In doing this, the Commission intended to obtain the necessary expertise and diversity absent in its existing list.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the Commission incurred expenditure of Kshs.17,756,345 by utilising the prequalification lists of other public entities as is permissible under section 32 of the now repealed Public Procurement and Disposal Act, 2005was persuasive. However, no explanation was submitted for single sourcing of the law firms contrary to Sections 78 to 85 (1)(b) of the Public Procurement and Disposal Act, 2005.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

559.3 Representation without Valid Contracts

Although the Commission explains that there were cases of misfiling of documents, documentary evidence availed indicates that 30 law firms were paid Kshs.328,314,977 during the year under review with no lawful contracts as required by Section 68 (2) (d) of Public Finance Management Act, 2012.

In this regard therefore, it is not possible to confirm validity of Kshs.328, 314,977 paid to these law firms. In addition, the procurement of these services was not fair, equitable, transparent, competitive and cost effective as required under Article 227(1) of the Constitution of Kenya.

Submissions by Accounting Officer

The Accounting Officer stated that:

1. Before the payment of all legal fees, the Commission had entered into contract with all the firms. Duly approved letters of instructions were issued by the Commission to all the firms.
2. The Commission followed the Public Procurement and Disposal Act (2005) and Public Procurement and Disposal Regulations (2006) which stipulates the various methods and procedures for undertaking Public Procurement to achieve the objectives of the Act as per section 2(a)-(e).
3. With regard to the procurement process being not fair, equitable, transparent, competitive and cost effective, the commission used a prequalified list of service providers as one of the procurement methods to identify the legal service providers.

Committee Observations and Findings

(i) IEBC treated the letters of instructions as valid contracts while procuring the law firms that represented the Commission on various petitions.
(ii) There were no clear guidelines that determined payment of legal fees to the individual Law Firms.
(iii) There were no adequate reasons provided that necessitated the officer to sign instructions letter by Him/Herself rather than on behalf of the Commission.
(iv) Ahmednasir, Abdikadir & Co Advocates that represented the Chairperson IEBC was paid Ksh 40 Million way above Aurelio R. Rebelio and Company Advocates that represented the Commission in the 2013 Presidential Election.
(v) The matter is unresolved.

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

560. Nugatory Payment

As reported in the previous year, the Commission paid Kshs.220, 400,000 for supply of 290 printers instead of 337 contracted. Information availed in the year under review indicates that due to the delay in payment, the supplier sued the Commission and an interest of Kshs.54, 223,524 was awarded for payment by the Commission. The Commission, therefore, incurred wasteful expenditure.

4.36 Submissions by IEBC

1. The Commission procured 290 printers from Office Technologies Ltd. Due to inadequate budget; the Commission was unable to pay for the printers. The amount therefore accrued as part of the pending bills which resulted from the 2013 general election.
2. The Treasury Internal Audit department audited the pending bills arising from 2013 elections, of which this payment was part of, and cleared the same. Consequently, the requisite funding was provided to facilitate its settlement.
3. During the intervening period, M/s Office Technologies Ltd became impatient and sued the Commission successfully. The firm was awarded the principal sum together with interest at commercial rates which amounted to Ksh 54 million together with costs.

Committee Observations and Findings

It was observed that the query was dealt with previously.

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

561. Late Delivery of Election Materials

The statement of financial performance reflects expenditure of Kshs.1, 005,365,000 in relation to general expenses of which an amount of Kshs.36, 058,000 relates to specialized materials and supplies. Included in the expenditure for specialized materials are goods valued at Kshs.26, 696,007 purchased for use in mass voter registration exercise and by-elections in Nyangores and Masongaleni County Assemblies, Kericho Senatorial and Malindi Constituency. However, these goods were delivered when the by-elections had been undertaken. It was noted that records on stores cards were falsified to purport that these goods were received before the by-elections and used for the intended purpose. Consequently, the propriety of the Kshs.26, 696,007 expenditure could not be confirmed.

Submissions by Accounting Officer

The Accounting Officer stated that:

1. The Commission followed due process in procuring the materials for Mass Voter Registration (MVR I) and by-elections (Kericho, Malindi, Nyangores and Masongaleni). As a matter of fact, procurement for Mass Voter Registration commenced in November 24,

2015. Requisition for by-elections was made in January 6, 2016. These were tight timelines for the two events.

2. For voter registration, the Commission had some surplus inventory in the store to allow for the commencement of the February – March 2016 MVR. Any surplus arising from the new deliveries were carried forward in subsequent MVR campaign February-March 2017. Similarly, with regards to by-elections, materials supplied were general use items that are often carried forward in similar electoral events.
3. We deny that there was any falsification of documents. The procurement for MVR I and by-elections (Kericho, Malindi, Nyangores and Masongaleni) materials was done through IFMIS (E-procurement). During this period the Procurement function experienced some challenges in generating Local Purchase Orders/Local Service Orders (LPOs/LSOs) online and hence there were delays in generating the LPOs from the system immediately the award was made. In this case, the vendors were notified through award letters to supply the materials. These goods had to be received in the warehouse and then be issued to the field even before the LPOs were generated. The later dates in the LPO did not amount to falsification of the stores cards to support the payment.

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining the Procurement function experienced some challenges in generating Local Purchase Orders/Local Service Orders (LPOs/LSOs) online and hence there were delays in generating the LPOs from the system immediately the award was madewas persuasive and should have been presented to the Auditor General during the subsequent financial year for audit review.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

562. Procurement of Air Tickets

The Commission procured air tickets for foreign travel totaling Kshs.9, 247,782 through direct procurement contrary to Section 74 (3) of the Public Procurement and Disposal Act, 2005. In addition, two (2) firms which were not prequalified to supply air tickets were paid Kshs.5, 108,402.

Submissions by Accounting Officer

The Accounting Officer stated that:

1. The tickets were procured directly from vendors who are registered with the National Treasury under Access to Government Procurement Opportunities (AGPO) arrangement. All the firms in the prequalified list declined the issue of POs and demanded upfront payment. This led to further negotiation with a firm which would readily accept POs to issue the tickets. These firms required that the payment is processed immediately before the upgraded ticket is issued. The only practical method was/is direct procurement.
2. In 2013, the Government directed that the procurement rules be amended to allow 30 per cent of contracts to be given to the youth, women and persons with disability without competition from established firms.

3. Reference to the National Treasury Circular No. 1/2015 of 15th January, 2015 requires Procurement Entities not to prequalify suppliers who are registered by the National Treasury under the special category of Youth Women and Persons With Disability as the registration serves as prequalification and the procuring entities are therefore instructed NOT to subject them to further prequalification. Tshwane is from the special category of Youth hence there was no need for re –prequalification (Annex 3A is the National Treasury Circular).

Committee Observations and Findings

(i) The submission tabled by the Accounting Officer explaining that the National Treasury Circular No. 1/2015 of 15th January, 2015 requires Procurement Entities not to prequalify suppliers who are registered by the National Treasury under the special category of Youth Women and Persons With Disability as the registration serves as prequalification and the procuring entities are therefore instructed NOT to subject them to further prequalificationwas persuasive The Committee marked the matter as resolved and should have been submitted to the Auditor General during the subsequent financial year for audit review.

(ii) The Commission was directed to provide a list of Directors of Ms Tshwane & tours Company that will determine whether the Company qualified under the special category of Youth Women and persons with Disability.

(iii)The Committee marked the matter as unresolved.

Committee Recommendations

Accounting Officers must always ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services pursuant to the provisions of section 68(2)(e) of the Public Finance Management Act, 2012.

563. Fixed Assets Register

As reported in the prior year's audit report, the fixed assets register has not been updated to capture 68 Olympia generators and 1,329 solar panels which are lying idle in various regional offices of the Commission. In consequence, it is not possible to confirm that the carrying values of property, plant and equipment as stated in the financial statements reflect the fair values as at 30 June 2016.

Submission by Accounting Officer

The Accounting Officer stated that the matter was addressed in the 2014/2015 audited accounts.

Committee Observations and Findings

(i) It was resolved that any individuals who were adversely mentioned under the report in respect to the matter would be accorded an opportunity to be heard before the Committee.

(ii) The Committee marked the matter as unresolved.

Committee Recommendations

It was resolved that any individuals who were adversely mentioned under the report in respect to the matter would be accorded an opportunity to be heard before the Committee.

564.1 Contract for Supply, Delivery, Installation, Configuration, Training, Testing and Commissioning of Electronic Voter Identification Devices (EVIDS)

The specifications relating to supply, delivery, installation, training, testing and commissioning of 30,000 EVIDs at a total cost of USD 16,651,139 were irregularly changed resulting in change of prices and value of goods and services. Consequently, value for money was not obtained and the equipment was not effectively used during the elections. The matter is in court.

Submission by Accounting Officer

The Accounting Officer observed that the matter was in the last session.

Committee Observations and Findings

The matter was addressed conclusively during the last session and is in court.

Committee Recommendations

The Committee would invoke Standing Order 89 and refrain from addressing the matter as was actively in court.

564.2 Procurement of Additional 4,600 Electronic Voter Identification Devices (EVIDs)
Unsatisfactory matters were disclosed relating to irregular procurement of additional 4,000 EVIDS out of which 4,600 EVIDS were purportedly delivered.

Submission from IEBC

The Accounting Officer stated that the query was discussed in the last session.

Committee Observations and Findings

The matter was addressed extensively during the last session.

Committee Recommendations

The Committee marked the matter as unresolved.

564.3 Irregular Payment for Transportation of Election Materials

A company was irregularly paid Kshs.50,487,440 for transportation of election materials. However, the company had not been contracted and was registered later after the general elections and the award of contract.

In addition, the total number of vehicles purported to have been contracted were less than what was actually paid for.

Further, vehicles purportedly used in specific regions were found to have been engaged in other regions on the same day resulting to excess payment of Kshs.42, 679,460.

Submission by Accounting Officer

The Accounting Officer stated that the query was discussed in the last session.

Committee Observations and Findings

The matter was addressed extensively during the last session.

Committee Recommendations

The Committee marked the matter as unresolved.

564.4 Examination of Two (2) Payment Vouchers Totaling Kshs.79, 106,538

The Commission irregularly made excess payment to a company for transportation of election materials totaling Kshs.46, 496,478. The Commission also failed to provide procurement documents relating to the contract as required under Section 37 (a) (ii) of the then Public Audit Act, 2003.

Submission from IEBC

The accounting officer stated that the query was discussed in the last session.

Committee Observations and Findings

The matter was addressed extensively during the last session.

Committee Recommendations

The Committee marked the matter as unresolved.

564.5 Examination of Payment Vouchers Nos. 396 and 386 Totaling Kshs.92, 342,000

The Commission irregularly procured election materials worth Kshs.92,342,000 using quotations contrary to Section 26 (3) (b) of the Public Procurement and Disposal Act, 2005.

564.6 Transfers to Burundi

The Commission irregularly transferred 150 EVIDS to Burundi contrary to Section 26 of Independent Electoral and Boundaries Commission Act, 2011.

Submission from IEBC

The Accounting Officer stated that the query was discussed in the last session.

Committee Observations and Findings

The matter was addressed extensively during the last session.

Committee Recommendations

The Committee marked the matter as unresolved.

564.7 Transfers to Ministry of Devolution

Unsatisfactory matters were disclosed relating to transfer of 200 Biometric Voter Registers (BVR) to the Ministry of Devolution contrary to Section 72 (3) of the Public Finance Management Act, 2012.

Submission from IEBC

The Accounting Officer stated that the query was discussed in the last session.

564.8 Loss of Forty Eight (48) Bio- Metric Voter Register (BVR) at Emgwen Constituency, Nandi County

48 BVRs were stolen from Kapsabet Warehouse, North Rift Region on 23 August 2014. This puts into doubt the security of data in terms of backup and unauthorized access.

Submission from IEBC

The Accounting Officer stated that the query was discussed in the last session.

During the examination of the audited accounts the members noted that there were officers from IEBC who were adversely mentioned and they were to appear before the committee to answer to queries they had been mentioned on, this was scheduled for 5th March 2018 but they appeared on the 16th of April 2018.

The adversely mentioned officers were:

1. Mr. James Oswago-Former Chief Executive Officer
2. Mr. Issack Hassan-
3. Praxides Tororey
4. Betty Nyabuto

Submissions from the adversely mentioned officers were as follows:

I. Mr. James Oswago-Former Chief Executive Officer

He submitted that he was recruited on 4th January 2010 and left at around October 2013 in unceremonious circumstances. He served as the Commission Secretary and Chief executive Officer and oversaw the 2010 referendum, 2013 General Election, numerous by election among many other duties he performed.

He sought the indulgenceof the Chair to only address queries that were connected to his mandate as the CEO.

Mr. Oswago noted by saying that he had carefully read the Auditor Generals Special report on the procurement of Electronic Election devices that is, EVID.

His preliminary remarks on the Audit quality were as follows:

1) He made reference to the Audit report paragraph 4.3.1.67 page 149 in which the Auditor General claimed to have written a letter to him and that he did not respond.
a) No such letter was written to him and he never received the same.
b) None of the people adversely mentioned in the report had their views recorded. They included Edward Karissa, and Willy Kamanga.
2) The same happened in the special Audit report on BVR Kits. This audit had been ordered by this Committee in 2013. In that instance, to the people most responsible were also never reached including himself. How was it possible that on a matter a grave as this the Auditor failed to reach him YET PAC Committee had managed to get him on the two occasions?
3) Contrast to the failure of the Auditor General to reach us and the fact that P.A.C was able to reach him on that occasion and all his colleagues in the BVR audit. It was a grave matter because it amounts to serious violations of his basic rights not to be condemned unheard. It might even disclose a deliberate attempt NOT to record his version of events. He noted that the Committee must pronounce itself on that matter.
4) Autonomy of the Tender Committee and other commission procurement committees.

He noted the following observations assigned to him and respond to them as follows:

i. **Failure to adhere to technical recommendations to cancel the EVID tender prior to signing the contract since the risk of failure had already been anticipated by technical team (ICT Director and International Federation of Electoral system consultant)**

On the above issues he noted that:

The conclusion was inaccurate and premature because:

a) It was based on the initial technical advice by the Director ICT on the 6th December 2012 and the initial advice of Ronan McDermott of IFES dated 7th December 2012. Refer to Page: 156 & 157 paragraphs 4.3.1.91 and 4.3.1.95 of Auditor General Report.
b) The audit did not consider the following :
    - Detailed technical presentation paper by the Director ICT to IEBC plenary on the 26th January 2013 at 10: am. In the paper, at paragraph 4 on page 4 under the heading CONCLUSION, the paper state “Considering all the circumstances above, it appears that the only options available to the commission is to accept Face technology’s latest proposal of 5000 handheld device and 25000 laptop based solution.”
    - Ronan McDermott - IFES technical advisor report titled IFES report on FACE demo/EVID dated 23rd January, 2013. In the report at page 2, under the heading FACE technology’s alternative EVID solution as Demonstrated “It appears to IFES that, as demonstrated, the alternative laptop based EVID solution can function as required on Election Day and identify or authenticate voters going to the polls. In short, the technology can work”.
    - The IEBC chairman’s response to IFES report on 7th December, 2012 which referred to Audit report paragraph 4.3.1.95 page 157. In the report IFES had initially advised for the cancellation of EVID. Upon reading the IEFS REPORT the Chairman responded as follows in an email – (Reference to Chairman email same day) Subject Re: Electronic Voter Identification Device draft contract? “Ronan with tremendous respect your recommendation coming so late in the day is most unfortunate and unacceptable. We need to separate results transmission from the poll book. Another tender cancelation will seriously undermine the dwindling confidence levels in the commission. I am sorry I have not met you formally but permit me to tell you your advice is bad advice. Help us salvage the situation by making sure the devise does what it is doing in Ghana which is just to identify the voter. Regards”
    - The Auditor failed to consider the final and binding technical advice from both IFES and Director ICT and the forceful response by the IEBC chairman. Instead the report relies on initial preliminary technical advice.

ii. **Failure to conduct due diligence even after the tender committee noted that the successful bidder was alleged to have attracted negative publicity related to loss of Taxes in Uganda.**

He submitted as follows:

- The requirement in Section 52(1) of the Procurement regulation is not mandatory, it is discretionary.
- It is the function of the Technical Evaluation Committee and NOT the Tender Committee as suggested by the auditor general.
- Certainly this is not the C.E.O’s responsibility.

- The Tender committee can refer an issue back to the Technical Evaluation Committee for further investigation and inquiry. And the Law requires the Tender committee to be very specific in such instance.
- The Tender Committee did not make any reference to the Technical evaluation team on this matter.
- The C.E.O had no role at all.
- Lastly, reference to paragraph 4.3.1.61," the Tender Committee held that the bidder was deemed reliable based on technical Evaluation report.

iii. **Letters of notifications of award to successful and unsuccessful bidders were written on different dates**

He submitted as follows:

- According to the Audit report the letters were signed by manager procurement exercising delegated authority.
- They were not signed by the C.EO /Director Finance or even D.C.EO (Support Services).
- It is absolutely irregular and strange that the manager procurement was never contacted by the Auditor General and is being condemned unheard. How then did the report conclude (at paragraph 4.3.1.71 page 150) that the notification to the unsuccessful firms was deliberately and unlawfully withheld pending acceptance by M/S FACE Technologies Ltd?

iv. Inspection and Acceptance of the 34,600 devices received was not done.

- This was an International Tender for the Supply, Installation, Configuration, Training, Testing and Commissioning of mobile Electronic Voter Identification Devices. It was not simply for the supply of computers or electronic gadgets or pens & books.
- At paragraph 1.4.2.5 the Audit report itself concludes "however the devices had been certified by Kenya Bureau of Standards and a Certificate of conformity issued." Inspection had therefore been done by the KEBS counterpart in china The China International Inspection Corporation at point of manufacture.
- The C.E.O IEBC had appointed an Inspection and Acceptance Committee whose members are shown at paragraph 4.3.3.2 page 164 of the Audit report.
- At paragraph 4.3.3.1 page 164, the C.E.O IEBC had appointed a Factory Testing & Acceptance team of two Senior ICT Managers to carry out the Factory Acceptance & Testing. The appointment was done on 7th January, 2013.
- The Inspection and Acceptance Committee is an Independent Committee of the Commission exercising administrative autonomy like the Tender Committee, Audit Committee and subject to its own direction and control.
- It is an undeniable fact that in all post 3rd March 2013 by elections; this technology was used and worked 100%. IEBC has acknowledged this much on various occasions even in courts of Law. The auditor General would have least difficulty in confirming this if he ever chooses to.
- At paragraph 1.4.5.1, the audit report states that the EVID failed in most parts of the country. The failure had nothing to do with procurement but everything to do with logistics. Ronan McDermott, the IFES consultant in his report dated 23rd January, 2013, state " the

successful operationalization of the technology - meaning delivery, training, data loading , configuration , battery charging ,deployment and support – that will determine whether or not the use of EVID will be a success".

- In Ghana in 2012, the same EVID were used. They mostly failed on the first day. The Electoral Commission in Ghana then suspended the election by one day in order to solve the EVID power management problems. In the ensuing election the equipment worked 100%.
- Same experience in Zambia

v. **Awarding of contract without Face Technologies having the required infrastructure and thereby affecting ERTS by using its servers**

- The Technical team of IEBC & IFES recommended that the contract be awarded to FACE technologies after carefully reviewing all the relevant technical aspects.
- Refer to Director ICT detailed technical presentation paper to IEBC plenary on the 26th January 2013 at 10:00 am at paragraph 4 on page 4, Ronan McDermott - IFES technical advisor report titled IFES report on FACE demo/EVID dated 23rd January, 2013 at page 2 and IEBC chairman's response to IFES report on 7th December, 2012 where he states "We need to separate results transmission from the poll book".
- The auditor failed to distinguish between EVID and ERTS and the functional relationship between the two.
- This contract was awarded after being considered and thoroughly evaluated by IEBC plenary of the Commission at its meeting of 26th January, 2013 and the C.E.O cannot take any responsibility at all for a plenary decision.

vi. **Variation of Contract by more than 10% from USD 16, 651,139.13 to USD 21,496,496.13 and Variation of Contract with Face Technologies by increasing supply of EVID from 30,000 devices to 34,600 devices was beyond the ceiling permitted in law without authority of tender Committee**

He submitted as follows:

- The audit confirms no money was lost and there was no misappropriation.
- The goods were contracted & delivered with the same specifications, same quantity, and at the agreed tender price from the same vendor. The C.E.O had already signed a contract with FACE technologies on 11th December, 2012 for the supply of 30,000 Units. Refer to audit report paragraph 4.3.1.86 page 155.
- The decision to increase the quantities to 34,000 units was made by Commissioners at the Commission plenary meeting on the following dates:
    - 10th January 2013 at 10:00 a.m. Minutes 12.16. Commission Approved procurement of 33,000 kits.
    - 26th January, 2013 at 10:00 a.m. Minute 30.02. The commission approved the procurement of 34,000 devices, 5000 -10000 being handheld devices and the balance laptop based devices.
- The above minutes of the Commission meeting were confirmed at Commission meeting of 7th February,2013 – MIN 260/2/213.

- It should be noted that the Commission sitting at full plenary discussed all aspect of the EVID procurement including receiving presentations from the vender
- The secretariat acted in full compliance to the plenary decision.
- On what Law and basis does the C.E.O take a full plenary decision on procurement to the Tender Committee and what would be the procedure?

vii. Pending Bills

He submitted as follows

He referred to the Report of the Auditor-General on the Financial Statements for

The National Government for the Year 2014/2015 at paragraph 468.2 page 258 on Procurement of Additional 4,600 Electronic Voter Identification Devices (EVIDs), Examination of e-mail communication between IEBC and the Contractor on 30 January2013 indicates that the Commission ordered for extra 4,000 units of Voter IdentificationDevices whose prices would be similar to those of the 30,000 units earlier ordered andContracted for.

The additional hand held EVIDs were purportedly received as follows: -

S/No.	Delivery Date	Delivery Note	Item Description	Quantity
1	26.2.2013	0125	Hand Held EVIDs	2,000
2	28.2.2013	0124	Hand Held EVIDs	2,600
Total				**4,600**

The Contractor submitted an invoice dated 6 February 2013 amounting to USD

4,628,746, which was validated as a pending bill by The National Treasury's Internal Audit. The National Treasury issued additional funding amounting to

Kshs.388, 562,633.00 (USD 4,628,746) for the payment of the pending obligation. However, the incoming CEO reviewed the invoice and considered that there was no adequate grounds to support the invoice claim amounting to USD 2,075,572.00, therefore, paid USD 2,553,174.80 (Kshs.259, 020,516.80) to discharge the obligation during financial year 2014/2015.

In the circumstance, the responsibility for the procurement of the additional electronic voter identification devices rests with the past management.

Submission by accounting officer

In the first place the decision to procure additional 4000 kits was a Commission plenary decision made by Commissioners at the Commission plenary meeting on the following dates:

- 10th January 2013 at 10:00 a.m. Minutes 12.16 – Approved procurement of 33,000 kits
- 26th January, 2013 at 10:00 a.m. Minute 30.02 – The commission approved the procurement of 34,000 devices, 5000 -10000 being handheld devices and the

balance laptop based devices.

The Accounting Officersubmitted that he had declined to pay the FACE invoice dated6 February 2013 amounting to USD 4,628,746 because of the following reasons:

The FACE Invoice for Payment for Additional 4,600 EVID

Quantity	Description	Unit price (USD)	Extended price (USD)
4,600	Electronic Voter identification Devices (Handheld)	432	1,987,200.00
	Vat and import duty on handheld devices		516,672.00
	IDF(Import Declaration Forms)		44,712.00
	Airport charges		73,508.00
	Logistics , Transport & labour cost		552,000.00
	Material component increase		1,305,000.00
4600	Hand held bags		69,000.00
	Duty on handheld bags		17,250.00
5565	Electrical Power Extension Cables		49,440.00
	Duty on Electrical Power Extension Cables		13,964.00
Total			4,628,746.00

1. The invoice above sent to the Commission included items which were fictitious , strange or doubtful that should not have been included in it i.e.:

Logistics, Transport & labor cost	USD 552,000.00
Material component increase	USD 1,305,000.00
Hand held bags	USD 69,000.00
Duty on handheld bags	USD 17,250.00
Electrical Power Extension Cables	USD 49,440.00
Duty on Electrical Power Extension Cables	USD 13,964.00

2. The Invoice included 600 EVID Kits, the items were to be provided for in the absence of a warranty & to cater for lack of local service Centre as reported by Director ICT on his paper to Plenary of 26th January, 2013 page 2. These were to be provided for free of cost to the Commission.
3. There was a delivery schedule and it was to be adhered to. The hand held kits arrived late in the day and thus could not be used as intended. A monetary value could be placed on this during negotiations.
4. Following the report by IFES on EVID demo by Ronan McDermott, FACE were to deliver 3G modems later on. This had not taken place yet.
5. After I left the Commission, Betty Nyabuto became acting C.E.O for over one and half years. She too did not pay.

II. Ms. Betty Nyabuto Sungura

Ms. Betty Nyabuto Sungura the Former Ag Accounting Officer and Secretary to the Commission (IEBC) appeared before the Committee and submitted that:

i. She was the immediate former Deputy Commission Secretary in- charge of Operations, at the Independent Electoral and Boundaries Commission (IEBC). In discharge of her duties, she oversaw the Directorate of Voter Registration and Electoral Operations and the Directorate of Voter Education and Partnerships.

ii. She further submitted that she was recruited to the Commission on November 2013 and exited in November 2017 after an expiry of an extension to her contract.

How did the IEBC contract law firms for court cases in 2013?

She responded that the lawyers were drawn from the pre-qualified lists developed by the Commission and the pre-qualification lists of other public entities as provided under Section 32 of the now repealed Public Procurement and Disposal Act (PPDA) were useful too.

IEBC policy in determining how to pay the law firms.

The Commission was bound by the Advocates Act, the Advocates Remuneration Order and Court decisions which have interpreted the same.

Justification for instructing 14 law firms to handle the Presidential Petitions 3, 4 and 5 of 2013?

i. There were 3 petitions filed at the Supreme namely Petition No 3 (that was filed on Wednesday 13th March, 2013), Petitions No 4 and 5 (that were filed on Saturday 16th March 2013).

ii. The Supreme Court expected the Commission to file responses within 3 days upon service. A response was thus necessary by the Tuesday of the succeeding week. In the meantime, the Court called for a mention on Monday 18th March 2013 and pre-trial directions were slated for Monday 25th March, 2013. Several intervening applications were filed in between those two dates requiring the preparation of the appropriate responses.

iii. With regards to the substantive petitions, the Commission was obliged by law to deliver all the statutory forms to the Court namely; all the statutory results from the polling stations countrywide (34,400 Forms 34), all aggregated results from the Constituencies, Counties and Nationally (Forms 36) and all Polling Registers as used during the polling including over 18,000 green books.

iv. The Commission was also obligated to trace and take statements from the Returning Officers including the Chairperson of the Commission, as the Returning Officer for the Presidential Poll, whose returns had been questioned. Over 50 witnesses were interviewed in this regard whose statements informed the principal affidavit and the subsidiary affidavits filed in Court.

v. Owing to the above, the nature of the assignment was enormous. This was further compounded by the obligation to prepare bound documents running into million pages. The exercise required in depth analysis of voluminous documents filed by the petitioners, preparation of responses against all allegations raised by the petitioners and demands for Preparation of witness statements, replies and submissions. This required such a number of law firms that enables the Commission to gather sufficient human resource capacity to undertake all the above tasks with the very limited timeline set by the law.

Justification for using other list of external entities apart from prequalified law firms.

i. The lawyers were picked on the basis of their technical expertise and experience, human resource capacity, capacity to withstand high voltage political cases and their understanding of the electoral process. Care was also taken to avoid conflicted advocates from being taken on board. The composition of the list of lawyers was endorsed by the Commission.

ii. Owing to the gaps in the existing prequalified list of law firms, the Commission had to seek for more Advocates to bring on board the necessary expertise required to mount a strong defence against the petitions filed.

iii. Considering the limited timelines for responses to those petitions, the procurement modes set out in the PPDA would not have been applicable without eating into the timelines for filing responses. It was nigh impossible to commence RFPs and RFQs in those circumstances noting that litigation was time bound.

vi. The entire architecture of the PPDA is predicated on precise planning and execution of projects. Unfortunately, it was not quite possible to anticipate the extent and nature of future litigation. That one cannot appoint lawyers beforehand.

vii. It would have seemed logical to rely on pre-qualified list maintained by the procurement unit. That would not have amounted to selective application of PPDA and the Rules but rather a compliance with its provisions to the maximum extent possible in the circumstances. Or else, do an open tender, RFP or RFQ and lose all the time available for filing the responses and consequently lose the entire petition.

viii. The RFQs and RFPs mode of procurement is often applied where there is sufficient time to conduct the evaluation and award of the tender and where the prices are subject to contest by the bidders. In this case, the luxury of time was not available and the prices are set out in law namely; the Advocates Remuneration Order.

ix. The PPOA took cognizance of the fact that professionals have their price governed by the Advocates Remuneration Order. In a circular dated 10th February, 2012, it advised the procuring entities to keep abreast such regulatory documents that govern fees for professional services.

x. However, RFP would not have worked in the circumstances of this case; bidding alone consumes 14 days of the entire process. Besides, legal services cannot be bid for; it is against the Rules of the profession. It can lead to undercutting or touting which are prohibited by the Advocates Act.

xi. That it is her considered view that the appointment of the Advocates who represented the Commission in the above petitions was in line with the Public Procurement and Disposal Act, the Regulations made thereunder, the Advocates Act and the Advocates Remuneration Order.

Justification for paying Ahmednasir, Abdikadir & Co Advocates more fees than the rest of the lawyers.

She responded that Mr. Ahmednasir acted for the National Returning Officer as a Senior Counsel. The responsibilities borne by the lawyer were higher and he brought on board expertise in election matters.

Committee Observations and Findings

(i) The Committee noted with concern the failure by the Commission to maintain an up to date prequalified list noting that the petitions were usually anticipated in any elections.

(ii) Despite using the Advocates Remuneration order, the Committee inquired whether there were negotiations before payment. Ms. Nyabuto responded that the cost suggested by the lawyers were higher, however through the negotiations the bills were significantly reduced.

III. Ms. Praxedes Tororey

Ms. Tororeythe Former Ag Accounting Officer and Secretary to the Commission (IEBC) appeared before the Committee and submitted the following:

1. She was recruited to the Commission in 2010 and exited in October 2017.
2. She undertook the large external Communication supported by the director legal and Public affairs. Whilst in some case it’s desirably for the external communication to be undertaken by the Chairperson, any legally binding communication is the responsibility of the CEO

3. She further quoted an extract in the Commission's HumanResources and Administration Policies and Procedures Manual, revised in June 2014. The extract on the External Communication is as shown below.

"All letters going out shall be signed by the CEO or on behalf of the CEO or his/ her appointed Officer but the CEO shall be fully accountable for the content of the letter. The CEO and the director legal and Public Affairs shall sign all contracts or agreements on behalf of the Commission. In their absence an alternate, authorised in writing, will sign on their behalf"

4. Although she did not sign for the CEO, the body of the letter indicated that she was acting on behalf of the commission. Further the letter contained her name and title.
5. With regards to use of prequalifying list of other agencies, she submitted that the Commission considered a range of factors while procuring legal services that include but not limited to the expertise required, the subject matter at hand, and complexity of the matter, Jurisdiction, volume of paper work and urgency of the matter. Further from the list of the lawyers who represented the Commission a few come out of the Commission prequalification list.
6. With regard to procurement of Ahmed Nasir firm, she submitted that she wouldn't recall whether he was in any of the Commission prequalified list, however the procurement of his services was in line with factors alluded above.
7. She was not in due pressure while performing her job.

Committee Observations and Findings

(i) Members observed that the extract presented by Ms. Praxedes Torerey could not be verified as having been extracted from Commission's HumanResources and Administration Policies and Procedures Manual, revised in June 2014. The Committee was of the view that she ought to have provided the full report rather than a page of the report.

(ii) The issue remained unresolved

IV. Mr. Issack Hassan-Former Chairperson IEBC

Mr. Issack Hassan the Former Chairperson of the Commission (IEBC) appeared before the Committee and submitted the following:

1. He was not related to Mr. Abdullai Yusuf and Mr. Issac Haji.
2. He had sent a letter to parliament through his lawyer expressing that as a Chairperson he was prohibited by law from taking part in the procurement functions of the IEBC therefore not placed to address any query on procurement.

Justification for donating computers to Burundi on grounds that they were obsolete

He submitted that he acted on the request by of the Chairperson of the electoral body of Burundi and transferred the asset to Ministry of Foreign affairs.

Plenary

When asked on his role on variation of contract with face technologies by increasing the supply of EVID from 30,000 devices to 34,600, he submitted that he was prevented by law in taking part in any of the procurement functions of the Commission. He further informed members that after it was brought to the attention of the Commission of an additional 3000 polling stations by the management, the Commission made a policy decision to increase the EVIDs accordingly as they were the basic equipment in conducting an election. However it was the responsibility of management to implement the plenary decisions through the laid procurement laws.

When asked whether his opinion through an emailed to Mr. Ronan the director IFES and Copied to Mr. James Oswago and Ms. Gladys Sholei (the CEO and the Deputy CEO respectively), reprimanding the advice of Mr. Ronan on the Cancellation of the tender; he submitted that his opinion did not by anyway influence the awarding of the tender. That by the time of the Communication the tender had been awarded and his opinion was not binding.

When asked whether the EVIDs failed because of the procurement processes, he submitted that the failure was as a result of Human error -meaning delivery, training, data loading, configuration, battery charging, deployment and support. However the EVIDs performed 100 percent in the subsequent by elections.

37.0. JUDICIAL SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2051

Mrs Anne Amadi, the Accounting Officer for Vote 2051, Judicial Service Commission appeared before the Committee on 24th April 2018 to adduce evidence on the audited Financial Statements of Vote 2051 Judicial Service Commission for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. She was accompanied by the following Officials:

1. **Mr.David Rapando - Chief Finance Officer;**
2. **Ms. Frida Mokaya - Registrar Judicial Service Commission;**
3. **Mr. Ronald Wanyama - Ag. Director Audit and Risk Management;**
4. **Mr. Edwin Mureti Mbu - Senior Finance Officer; and**
5. **Ms. Sharon Mwanyuli - Resident Magistrate**

Basis for Qualified Opinion

570. Unsupported Board Expenditure

During the year under review, the Commission held a total of 61 board meetings. However, only 31 meetings were supported by minutes. In absence of proper supporting documents of attendance registers and board meeting minutes, the total expenditure of Kshs.49,000,000 paid for board meetings could not be ascertained. Consequently, the propriety of the expenditure of Kshs.49,000,000 could not be confirmed.

Submission by Accounting Officer

The Accounting Officer submitted that during the financial year 2015/2016 the Commission held 61 sittings which included both full JSC meetings and Committee meetings. The Commission had minutes, Hansard reports of the proceedings or reports developed at the end of the sessions in support thereof. The Commission confirmed that all the recording of these proceedings in minutes form, verbatim Hansard reports or specialized reports have been made available to the audit team and inspected. The meetings are as tabulated below;

Nature of meeting	No of sittings	Status
Full Commission meetings	15	Minutes Available
Human Resource committee meetings	26	Minutes Available
Finance and Administration Committee Meetings	4	Minutes Available
Administration of Justice committee Meetings	5	Minutes Available
Audit Committee Meetings	4	Minutes Available
Learning and development	3	Minutes Available

Committee Meetings		
IOCD Committee Meeting	1	Minutes Available
Preliminary assessment on complaints against Judges.	3	Minute available
TOTAL	61	Minutes/Reports ready for review

Committee Observations and Findings

(i) The submission by the Accounting Officer that the Commission confirmed that all the recordings of proceedings in minutes form, verbatim Hansard reports or specialized reports have been made available to the audit team and inspected was compelling and the Committee noted that the evidence should have been availed during the period of audit review pursuant to the provisions of section 68(2) (l) of the PFM Act, 2012.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting officers must at all times ensure that they avail supporting documentation to the financial statements within (3) three months after the end of the financial year pursuant to section 68 (2) (k) of the PFM Act 2012.

Other Matter

571. under- Expenditure

The statement of Appropriation Account Recurrent for the year 2015/2016 reflects a final budget of Kshs.473,200,002 and actual on comparison basis of Kshs.394,411,753 resulting in an under expenditure of Kshs.78,788,249 or 17% of the total budget. No explanation has been provided for the low absorption of the budgeted funds which casts doubt as to whether the Commission achieved its intended purposes during the year.

Submission by Accounting Officer

The Accounting Officer submitted that the activities of the Commission are planned. In the year under review the Commission encountered challenges like litigation and injunctive orders issued by courts which led to derailing of commissions planned activities. Specifically the under absorption is therefore attributed to litigation against the Commission which led to slowing down of the planned Commission's activities. The case on determination of retirement age of judges and cases by former employees who were dismissed among others led to the delay in recruitment of judges and staff. Further, due to transition challenges to the new Public Procurement and Assets Disposal Act, 2015 there was delay in uploading of the Commission's procurement plan because of IFMIS configuration challenges thus leading to delay in procurement in the first quarter of the financial year.

Committee Observations and Findings

(i) The submission by the Accounting Officer that the under absorption is therefore attributed to litigation against the Commission which led to slowing down of the planned Commission's activities was persuasive.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

Accounting Officers should ensure that they prepare estimates of expenditure and revenue of the entity in conformity with the strategic plan in accordance with the provisions of section 68(2) of the Public Finance Management Act, 2012.

572. Unexplained Expenditure Increases

During the year under review, the Commission incurred, under the use of goods and services the following expenditure items which had huge unexplained increases

Item	2014/2015 (Kshs)	2015/2016 (Kshs)	Un explained Increase (Kshs.)	%
Foreign travel and subsistence	34,424,667	56,183,257	21,758,590	63%
Printing, Advertising and Information supplies and services	4,270,659	16,635,302	12,364,643	290%
Training Expenses	81,690,620	136,494,108	54,803,480	67%
Other Operating expenses	7,439,500	32,100,485	24,660,985	332%
Total	**127,825,476**	**241,413,152**	**113,587,706**	

The management of the Board did not provide sufficient explanations to justify the huge increases of the expenditures.

In the circumstance, the propriety and probity of the expenditure of Kshs.241,413,152 could not be confirmed.

Submission by Accounting Officer

The Commission's activities are supported by approved work plans hence all activities were as budgeted for in the Commission's approved work plans.

Committee Observations and Findings

(i) The submission by the Accounting Officer that theCommission's activities are supported by approved work plans hence all activities were as budgeted for in the Commission's approved work plans was not persuasive and did not provide sufficient

explanations to justify the huge increases of the expendituresof Kshs. 241,413,152 pursuant to the provisions of section 68(2) (l) of the PFM Act, 2012.

(ii) The Committee marked the matter as unresolved.

(iii)The Accounting Officer during the period under review was

Committee Recommendations

(i) , The Accounting Officer (during the period under review) must,within three (3) months after adoption of the report, provide an explanation to the Cabinet Secretary to the National Treasury forunexplained expenditure increases of Kshs. 241,413,152 incurred under the use of goods and services contrary to the provisions of sections 68 (1)(a) of the Public Finance Management Act, 2012.

(ii) Where the Accounting Officer fails to provide an explanation, the Accounting Officer (during the period under review) or any officer determined to be culpable should be surcharged Kshs.2,961,600 incurred under the use of goods and services contrary pursuant to the manner provided under section 196(1) and 202 of the Public Finance Management Act, 2012.

(iii), The Office of the Auditor General should,within three (3) months after adoption of the report,, conducts aforensicaudits to establish whether there was any fraud, corruption or other financial improprieties in the unexplained expenditure increases of Kshs. 241,413,152 incurred under the use of goods and services and table a report for consideration before the National Assembly.

38.0. COMMISSION ON REVENUE ALLOCATION

FINANCIAL STATEMENTS FOR VOTE 2061

Basis for Qualified Opinion

573. Unreconciled Balances

Various account balances reflected in the financial statements differ with the Integrated Financial Management Information System (IFMIS) trial balance figures as at 30 June 2016 as summarized below:

Account Details	**Financial Statements Balance (Kshs)**	**IFMIS Trial Balance (Kshs)**	**Difference** (Kshs)
Total Expenses	325,071,845	301,066,165	24,005,680
Total Assets	188,459,241	12,933,238	175,526,003
Total Liabilities	6,302,041	7,321,441	(1,019,400

No reconciliation has been provided for the differences.

Committee Observations

The report on Commission on Revenue Allocation has been tabled.

39.0. SALARIES AND REMUNERATION COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2081

Ms. Gitau Anne, the Accounting Officer for Vote 2081 Salaries and Remuneration Commission appeared before the Committee on 30th August 2018 to adduce evidence on the audited Financial Statements of Vote 2081 Salaries and Remuneration Commission for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. She was accompanied by the following Officials:

1. **Ms. Margret Njoka – DCSS;**
2. **Mr. Johnson Wambugu – DCSS; and**
3. **Ms. Josephine Karuga; Accountant**

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this commission.

Other Matter

574. Accounting Systems

The Commission uses two accounting systems to maintain books of account, Quick Books Accounting software and Integrated Financial Management System-IFMIS. These two systems are not integrated and as a result transactions are not captured in both systems concurrently. Whereas Quick Books Accounting system uses accrual method of accounting, IFMIS is cash based. The Commission's financial statements for the year ended 30 June 2016 have been prepared on accrual basis based On Quick Books Accounting System. Audit review revealed that the financial statements reflect balances which differ from IFMIS trial balance figures as analyzed below.

Account Details	Financial Statements Balance (Kshs)	IFMIS Trial Balance (Kshs)	Difference (Kshs)
Total Revenue	970,113,156	970,041,900	71,256
Total Expenses	773,909,242	839,419,102	65,509,860
Total Assets	382,316,502	1,704,081,671	(1,321,765,169)
Total Liabilities	11,083,244	19,934,400	(8,851,156

The resulting differences are as a result of varying treatment of transactions in the two accounting systems which however have not been reconciled.

Submission by Accounting Officer

The Accounting Officer submitted that the Commission uses two accounting systems to maintain books of accounts, quick books accounting software and Integrated Financial Management System-IFMIS. These two systems are not integrated and as a result transactions are captured in both systems concurrently. Whereas Quick books accounting systems uses accrual method of accounting, IFMIS uses cash based. The Commissions financial statements for the year ended 30th June 2015 have been prepared on accrual basis based on quick books accounting system. Audit review revealed that the financial statements reflect balances which differ from IFMIS trial balance figures as analyzed below.

Account Details	Financial Statements Balance (Kshs)	IFMIS Trial Balance (Kshs.)	Difference (Kshs.)
Total Revenue	970,113,156.00	970,041,900.00	71,256.00
Total Expenses	773,909,242.00	839,419,101.55	65,509,859.55
Total Assets	382,316,501.80	1,704,081,670.85	(1,321,765,169.00)
Total Liabilities	11,083,244.00	19,934,400.45	(8,851,156.45)

The resulting differences were as a result of varying treatment of transactions in the two accounting systems which however have not been reconciled.

The accounting officer submitted that the Commission put in place a simplified QuickBooks system which is used to prepare Financial Statements using the accrual basis of accounting. All the financial transactions by the Commission were processed through IFMIS which is the main approved Government system aligned to the budget. However, some cumulative balances in the IFMIS trial balance at the end the year varied with the actual cumulative figures in QuickBooks. This was mainly due to:

i) Accrued balances in the financial statements resulting from accrued based method of accounting which accumulates some classes of expenditures and also include certain provisions as provided for under IPSAS (International Public Accounting Standards). IFMIS balances are purely accounted for on cash basis. These balances include:
   - Provisions for leave as at end of the year
   - Provision for gratuity earned but not paid by the end of the year
   - Accumulated depreciation and depreciation charged in the respective years

ii) Unreconciled prior years' balances brought forward dating back to 2012.

iii) Treatment of the balance items particularly the net book values of non-current assets and prepayments

The Commission has been working together with the National Treasury in a bid to reconcile the old balances. The variances reflected in the books as at 30th June 2016 are explained here below:

Account Details	Financial Statements Balance (Kshs)	IFMIS Trial Balance (Kshs.)	Difference (Kshs.)
Total Revenue	970,113,156.00	970,041,900.00	71,256.00

i. The difference is as a result of revenue earned by the Commission on check-off from payroll deductions of Kshs. 64,967.95 and Kshs. 5,278.79 earned as profit on compensation of a lost laptop by the insurance.
ii. These two items were recognized as revenue in accrual based accounting. They were however not included in the IFMIS

Account Details	Financial Statements Balance (Kshs)	IFMIS Trial Balance (Kshs.)	Difference (Kshs.)
Total Expenses	773,909,242.00	839,419,101.55	65,509,859.55

The difference in expenses is majorly due to difference in accounting treatment of certain classes of Assets in IFMIS and QuickBooks. Which includes-;

i. Accrued expenses for Gratuity, Staff leave provision amounting to Ksh 5,698,347 which were expensed in the financial statements but not recognized in cash based IFMIS system as they did not involve actual flow of cash.
ii. Depreciation expenses of Ksh 37,277,494 which is recognized as an expense in the Financial Statements but not recognized in IFMIS since its doesn't involve actual flow of cash
iii. Purchase of fixed assets amounting to Ksh 2,797,610 which was capitalized in the financial statements and expensed in IFMIS.
iv. The other difference of Ksh 376,814 relates to amount miss-posted in IFMIS and corrected during the preparation of the financial statements

Note that the actual expenses amount in IFMIS as per the trial balance used to prepare financial statements was Ksh 731,310,215 and not 839,419,101.55

Account Details	Financial Statements Balance (Kshs)	IFMIS Trial Balance (Kshs.)	Difference (Kshs.)
Total Assets	382,316,501.80	1,704,081,670.85	(1,321,765,169.00)

The main differences were as a result of:

i. Difference in cash balance between the IFMIS cashbook and Financial Statements cash balances. The IFMIS cash balance includes entry of bank of Ksh 390,832,751 and cash in hand of Ksh. 705,139,219.25 that were brought forward in our books from the previous year roll over procedure by the National Treasury.
ii. It also includes Government imprest of Ksh 10,104,089.70 also wrongly brought forward.
iii. The Commissions Financial statements had recorded prepayments of Kshs. 28,689,912 being the amount paid for insurance and rent by the close of the year but the actual cost would be expensed in the following year. IFMIS had instead recognized the prepayment as an expense for the FY 2015/16.
iv. The Commission's financial statements had also recorded non-current assets of Kshs. 157,057,414 being the cumulative net book value cost of the assets accumulated over the years and intangible assets of Kshs. 8,329,237. This was omitted from the IFMIS system since IFMIS does not recognize asset balances brought forward nor depreciation.

Account Details	**Financial Statements Balance (Kshs)**	**IFMIS Trial Balance (Kshs.)**	**Difference (Kshs.)**
Total Liabilities	11,083,244.00	19,934,400.45	(8,851,156.45)

The difference in Liabilities is as a result of:

i. The financial statements' balance comprises of unpaid creditors of Ksh. 2,578,322, and provisions and accruals (staff leave days and gratuity) of Ksh 8,504,922 while the IFMIS balance is as a result of self-generated liabilities that clear off once closing procedures are done by the National treasury.

Committee Observations and Findings

(i) The SRC received an unqualified opinion which is commendable. However, the Commission uses two uses two accounting systems which are not integrated to maintain books of account namely Quick Books Accounting software and IFMIS. Quick Books Accounting system uses accrual method of accounting while the IFMIS is still based on cash accounting method; and

(ii) The Commission's financial statements for the year ended 30th June 2016 were prepared on accrual basis based On Quick Books Accounting System. The resulting differences were as a result of varying treatment of transactions in the two accounting systems which

however have not been reconciled.The Commission has been working together with the National Treasury in a bid to reconcile the old balances

Committee Recommendations

The Committee commends the Accounting Officer and the team at the SRC for keeping financial statements that are unqualified. However, the Commission should at all times prepare its financial statements on IFMIS which is the financial system designed and prescribed by the National Treasury as provided for in Section 12(1e) of the PFM Act 2012;

40.0. PUBLIC SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2071

Unqualified Opinion

There was no material issues noted during the audit of the financial statements of this commission.

Committee Observations

The Public Service Commission received an unqualified opinion which is commendable

Committee Recommendations

The Committee commends the Accounting Officer and the team at the Public Service Commission for leading the public service by example in keeping financial statements that are unqualified.

41.0. TEACHERS SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2091

Ms. Nancy N. Macharia the accounting officer for Vote 2091 and the Chief Executive Officer Teacher Service Commission appeared before the Committee on 8th May 2018 to adduce evidence on the audited Financial Statements of Vote 2091 Teacher ServiceCommission for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. She was accompanied by the following Officials:

1. **Mr. Nicholas M Mwaniki - Senior Deputy Director**
2. **Mr. Allan M. Sitima - Legal Officer**
3. **Ms. Grace Ngure - Ag Director**
4. **Ms. Caroline Macharia - Ag Senior Deputy Director**
5. **Mr. Charles G. Mahungu - Ag Director Internal Audit**
6. **Mr. Joseph Olwangi - Ag Director (IA)**
7. **Mr. Japheth Kaunyu - Chief Accountant**
8. **Mr. John Karanja - Ag Deputy Director**
9. **Mr. Hilary Limo - Accounts**

Basis for Qualified Opinion

575. Stores and Cash losses

Note 8 to the financial statements reflects accounts receivables - outstanding imprest and clearance accounts figure of Kshs.369,119,570 as at 30 June 2015. The figure of Kshs.369,119,570 included unrecoverable losses of stores and cash losses amounting to Kshs.10,487,516 and Kshs.2,928,398 respectively, which as previously reported occurred between the years 1988 and 2000. The matter was investigated and the Director of Public Prosecutions directed the suspect to be charged with the offence of stealing by person employed in the Public Service contrary to Section 280 of the penal code. A review of the mater during the year under review indicated that the suspect was charged in a Court of Law, and the case was pending as at the date of this report.

In addition, included in the balance of Kshs.369,119,570 was a long outstanding Pay As You Earn (PAYE) amount of Kshs.128,392,939 which was paid to Kenya Revenue Authority (KRA) on account of former teachers who deserted their jobs and their salaries were returned to the Commission. A review of the matter during the time of audit indicate that KRA carried out an audit on the PAYE amount and as a result adjusted the figure downwards to Kshs.46,060,915 as at 30 June 2016. The net Pay As You Earn (PAYE) amount of Kshs.46,060,915 had not been recoveries as at the date of this report.

In the circumstances, it has not been possible to confirm the recoverability of the accounts receivables – outstanding imprest and clearance accounts figure of Kshs.369,119,570 for the year ended 30 June 2016.

Submission by Accounting Officer

The Accounting Officer submitted that:

i. These were losses occasioned by theft of stores which the Commission followed up and the suspect was charged at the Kibera Law Courts vide O.B. NO.46/3/6/2013 with the offense of stealing by person employed in public service contrary to section 280 of the penal code.
ii. In response to the Commission's letter Ref: TSC/LS/004/Acc/10 /45 dated 21/ 3/2018 enquiring on the progress of the case, the prosecuting officer – Kibera Law Courts vide letter Ref: KBR/ODPPP/1 dated 21/3/2018 replied that the case is ongoing and the last hearing date was on 19th March, 2018 when it was adjourned to 25th July, 2018. Though the Commission does not have control over the progress of the case, its legal officer is following up on the matter to ensure that it is finalized as soon as possible.

Cash Losses Ksh. 2,928,398

i. These were cash losses which occurred in the period 1988-2000 and the Commission followed up the matter in the Courts over several years culminating with the Investigating Officer's letter Ref: CID/IB/SEC/4/3/1/A/VOL.III/64 dated 5/9/2014 indicating the insurmountable challenges in charging the culprits.
ii. The Commission recommended for write off in the meeting held on 24/ 9/15 and has subsequently sought for the National Treasury's approval vide letter Ref: TSC/FIN/32/VOL.IX/34 dated 9/ 6/17, followed with a reminder Ref: TSC/FIN/60/VOL.IV/109 dated 30/ 1/18 before recognizing the write off in our books. No response has been received from the National Treasury as at the date of this write up.

Refund of PAYE Ksh. 128,392,939

i. The Commission and Kenya Revenue Authority auditors held a meeting on 26/2/2016 to agree on the modalities of verifying the records and documents that supported the claim.
ii. As provided under section 59 of the tax Procedures Act 2015, KRA audited the original claim of Kshs. 128,392,939 on 24/3/2016.
iii. The claim was revised downwards to Kshs.46,060,915 vide their letter dated 9/8/2016 and the Commission received the refund of Kshs.46,057,935.35 on 23/2/2018 from KRA vide their letter dated 1/3/2018.
iv. The Commission has also sought approval for the write off of the un-recoverable balance of Kshs. 68,802,494.55 from the National Treasury vide letter Ref:TSC/FIN/32/VOL.IX/25 dated 10/4/17, followed with a reminder Ref: TSC/FIN/60/VOL.IV/109 dated 30/ 1/18.
v. The Commission is seeking advice from the Committee.

Committee Observations and Findings

(i) **The submission by the Accounting Officer relating to the steps undertaken to recoverability of the accounts receivables – outstanding imprest and clearance accounts figure of Kshs.369,119,570 for the year ended 30 June 2016 was persuasive.**

(ii) **The Committee marked the matter as unresolved pending action by the National Treasury on write-offs.**

Committee Recommendations

The National Treasury should, within three (3) months after adoption of the report, furnish the National Assembly with a report on the request from the Commission for approvals for the write off of the un-recoverable balance of Kshs. 68,802,494.55vide letter Ref: TSC/FIN/32/VOL.IX/25 dated 10/4/17, and Ref: TSC/FIN/60/VOL.IV/109 dated 30/ 1/18.

576. Property, Plant and Equipment Schedule

As reported in the previous years, the property, plant and equipment schedule balance of Kshs.3,309,632,540 under Annexure XIX as at 1 July 2015 included Kshs.226,194 being the residual value of two (2) motor vehicles procured between 1996 and 2004 for a total cost of Kshs.3,564,814. Although the two motor vehicles were still in good working condition as at the date of this report, their reported residual value of Kshs.226,194 appeared way below their market value.

In the circumstances, it has not been possible to confirm that the property, plant schedule balance of Kshs.3,309,632,540 as at 30 June 2015 is fairly stated.

Submission by Accounting Officer

Motor vehicles Net Book Value of Ksh. 226,194

The Accounting Officer stated that the revaluation of the two (2) Motor Vehicles whose net book valuewas Ksh. 226,194 by the Ministry of Public Works & Infrastructure is as follows:

i. GK A 814X- Nissan pick/up whose log book which got lost has since been replaced by NTSA. The vehicle was revalued at Ksh. 445,000 on 19/3/2018.
ii. This second vehicle registration KAR 246L- Nissan Urvan was repossessed from auctioneers. The original log book was submitted to KRA on 30/6/2011 to verify the rightful owner upon their request vide letter ref: KRA/RTD/TRANS-DUP/10027/0-11 dated 13/6/2011. The case is ready for hearing after parties exchanged all pleadings.

However, crucial documents filed by the Plaintiff are missing from the Court file and consequently, on 24th September, 2014 the Court directed that the documents be replaced forthwith. To date, the Plaintiff is yet to set down the suit for hearing hence the Commission (Defendant) has prepared an application to dismiss the suit for want of prosecution.

Committee Observations and Findings

(i) **The submission by the Accounting Officer that GK A 814X- Nissan pick/up whose log book which got lost has since been replaced by NTSA and was revalued at Ksh. 445,000 on 19/3/2018 was compelling and the Committee would refrain from making a finding on KAR 246L- Nissan Urvan - as matters relating to the vehicle were active before a court pursuant to the provisions of Standing Order 89 of the National Assembly Standing Orders.**

(ii) **The Committee marked the matter as unresolved.**

Committee Recommendations

Accounting Officers must at all times ensure proper management of their entities' assets to ensure value for money in acquisition, use and disposal of those assets pursuant to the provisions of section 72(1) of the Public Finance Management Act, 2012.

577. Mortgages and Loans

As disclosed in note 9 to the financial statements, the accounts payable balance of Kshs.9,374,038,821 as at 30 June 2016, includes other liabilities figure of Kshs.9,005,115,701 which also includes mortgages and bank loans figure of Kshs.2,123,293,265 whose supporting analysis was not availed for audit verification. In the circumstances, it has not been possible to confirm the accuracy and validity of the accounts payable balance of Kshs.9,374,038,821.

Submission by Accounting Officer

The Accounting Officer stated that the amount of Kshs. 2,123,293,265 relates to 3rd party payroll deductions to various banks and mortgage institutions. Mortgages and Bank loans is the tailored description of this ledger account in the GOK IFMIS but refers to amounts deducted from monthly salaries to clear the bank loans the employees had obtained. The supporting schedule was availed to the Office of the Auditor General for verification during the audit of the 2016/2017 financial statements**.** The matter has been resolved.

Committee Observations and Findings

(i) **The Committee notedthat the relevant supporting documents have since been availed and verified.**

(ii) **The Committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers should at all times comply with the IPSAS standards of reporting issued from time to time by the Public Sector Accounting Standards Board in accordance with the provisions of section 81(3) of the Public Finance Management Act, 2012.

42.0. THE NATIONAL POLICE SERVICE COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2101

Mr. Joseph V. Onyango, the Accounting Officerfor Vote 2101and Secretary to the Commission, The National Police Service Commission appeared before the Committee 4th March 2019 to adduce evidence on the audited Financial Statements of Vote 2101The National Police Service Commissionfor the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **Mr. Longinus Mulindo - Director Strategy and Research;**
2. **Mr. Patrick Odonyo - Director Communication and Outreach;**
3. **Ms. Esther Kitonyi - Manager Accounts;**
4. **Mr. Vincent Kimari - Manager Procurement;**
5. **Ms. Christine Rotich - Director Human Resource Management; and**
6. **Ms. Pauline W. Ngari - FinanceOfficer**

Basis for Qualified Opinion

578. Procurement of Group Medical Cover and Group Life/Accident Cover

During the year, the Commission procured group medical cover and group life/accident cover from an insurance company at a cost of Kshs.26,432,077 and Kshs.1,341,336 respectively using restricted tendering method contrary to Section 102 (1) of the Public Procurement and Asset Disposal, 2015

It was noted that major insurance companies were eliminated on the basis of not having attached the basic documents like certificate of registration with Insurance Regulatory Authority which is an indication that the tender did not fully disclose the documents required contrary to Section 70 (3) of the Public Procurement and Asset Disposal Act, 2015. Information available indicates that an Insurance Brokerage firm passed the preliminary evaluation despite the fact that it was acting on behalf of an Insurance firm which was eliminated by the Commission in the preliminary evaluation. In a Tender Committee meeting held on 23 March, 2016 the Commission extended the contract for group life / personal accident cover at a cost of Kshs. 1,341,336 on 9 April 2015. No justification has been provided for the extension.

Submission by Accounting Officer

(a) Group Medical Scheme Cover

The Accounting Officer submitted that the Commission began the process of procuring a firm to provide medical insurance cover for its employees in November, 2015. The Commission first wrote to the then Public Procurement Oversight Authority requesting for guidance on whether to use Restricted Tendering method or open tender to source for a firm to offer medical services in the year under review.

In its response dated 25th November, 2015 the Public Procurement Oversight Authority indicated that a procurement process and choice of a method is the responsibility of the procuring entity and that the Commission should be guided by its procurement plan pursuant to section 26(3) of the Public Procurement and Disposal Act, 2015. Further, the Commission was advised that a procuring entity may opt to use an alternative procurement method in line with section 29(3) of the Act and upon fulfilment of the requirements for use of each of such methods set out in the Act and its attendant regulations. In light of this, the Commission requested for the approval Tender Committee to use Restricted Tendering method to invite the firms from its list of prequalified suppliers to bid for the tender. Subsequently, the Tender Committee approved a list of seventeen Insurance firms and Insurance brokerage firms drawn from the Commission's list of prequalified suppliers to participate in the tender. The firms invited were: -

M/S APA Insurance

M/S Madison Insurance

M/S Heritage Insurance

M/S Afrocentirc Health Solution Ltd

M/S AON Kenya Insurance Brokers

M/S UAP Insurance Company

M/S Alexander Forbes

M/S First Assurance

M/S Sapon Insurance Brokers

M/S Plan and Place Insurance Brokers

M/S Disney Insurance Brokers

M/S Amro Insurance Brokers

M/S Unipolar Insurance Brokers C Ltd

M/S Great Five Insurance Brokers

M/S Jubilee Insurance

M/S Royal Associates Insurance Brokers

M/S HP insurance Brokers

From the tender register, twelve firms out of the seventeen firms collected the tender documents (See Annex 1B attached). These were:-

M/S Heritage Insurance

M/S Jubilee Insurance

M/S Alexander Forbes

M/S Madison Insurance

M/S UAP Insurance

M/S First Assurance Co. Ltd

M/S Disney Insurance Brokers Ltd

M/S HP Insurance Brokers Ltd

M/S AON Kenya Insurance Brokers Ltd

M/S Royal Associates Insurance Brokers

M/S Sapon insurance Brokers

M/S APA Insurance

Seven firms responded to the tender and submitted their tender documents as per the set deadline of 21st December, 2015. Those firms were:-

M/S Heritage Insurance

M/S Madison Insurance

M/S UAP Insurance

M/S First Assurance Co. Ltd

M/S Disney Insurance Brokers Ltd

M/S HP Insurance Brokers Ltd

M/S AON Kenya Insurance Brokers Ltd

The tender document fully disclosed all the documents required from the Insurance firms and the Insurance Brokerage firms intending to participate in the tender on pages 19-20: (See Annex 1C attached- Restricted tender No: NPSC/TO2/2015-2016. The criterion to be used for the technical evaluation was also listed on the same page. The evaluation of the bid documents was therefore based on the said criteria. Any firm that did not attach all the mandatory requirements set out was disqualified from proceeding to the technical evaluation. The analysis of the preliminary evaluation as per the criteria indicated was as follows:-

Table 1.0 Summary of Preliminary Evaluation

S/No	**Firm**	**Pass/Fail**
	M/S Heritage Insurance	Pass
	M/S Disney Insurance Brokers Ltd	Pass

	M/S HP Insurance Brokers Ltd	Pass
	M/S AON Insurance Brokers Ltd	Pass
	M/S Madison insurance	Fail
	M/S UAP Insurance	Fail
	M/S First Assurance	Fail

The Accounting Officer submitted that the above analysis, four firms i.e. Heritage Insurance, Disney Insurance Brokers, HP Insurance Brokers and AON Insurance Brokers, passed the preliminary evaluation by attaching all the mandatory documents required for the evaluation and were therefore recommended for technical evaluation. It should be noted that during the time of tendering for medical insurance, M/S Disney Insurance Brokers was acting on behalf of Saham Assurance Co. K Ltd and not First Assurance as indicated in your observations.

On completion of the technical evaluation process, three firms i.e. M/S Heritage Insurance, HP Insurance Brokers and AON Insurance Brokers met the set pass mark of 85 points. The three firms were further evaluated on the basis of the proposed benefits and the limits of their various covers. Finally, M/S Heritage Insurance emerged the winning firm and was awarded the tender to provide medical insurance services for the Commissioners and Staff of National Police Service Commission (NPSC).

(b) Group Life/Personal Accident Insurance Cover

The Accounting Officer submitted that the Commission issued a tender to its prequalified suppliers for the provision of Group Life Insurance and Group Personal Accident cover in March 2015. Following a thorough evaluation of the submitted tender documents, the Commission Tender Committee, in its meeting held on 9th April, 2015 awarded the tender for provision of Group Life Insurance and Group Personal Accident cover to M/S Disney Insurance Brokers Ltd for a period of one year.

The Commission renewed the cover with Disney Insurance brokers in 2016 at a total cost of Kshs. 1,341,336/= for a period of one year. The reasons for the renewal were occasioned by the following:-

In March 2016, an executive order was issued for the immediate recruitment of 10,000 police constables. The Commission therefore went into overdrive to ensure compliance with the directive. During this time, the Commission inadvertently failed to notice that the cover was due to lapse in April 2016. By the time the recruitment process ended on 4th April, 2016 the Commission had only four days to make arrangements for a new cover.
In order to obviate any lapses in the cover and thus expose its employees to risk, the Commission opted to renew the cover with Disney Insurance Brokers for a period of one year at the same cost of

Kshs. 1,341,336/= as contained in the Tender Committee Minutes of meeting held on 23rd March 2016.

Committee Observations and Findings

(i) The Commission used restricted tendering to award M/S Heritage Insurance the tender to provide medical insurance services for the Commissioners and Staff of National Police Service Commission (NPSC) at a cost of Kshs. 26,432,077. The use of restricted tendering did not satisfy conditions prescribed in Section 102 of the PPAD Act 2015; and

(ii) The Commission procured group life/accident covers from Disney Insurance Brokers Company at a cost of Kshs. 1,341,336 using restricted tendering method. The use of restricted tendering did not satisfy conditions prescribed in Section 102 of the PPAD Act 2015. Further, the Commission extended the contract with Disney Insurance Brokers for a period of one year at of Kshs. 1,341,336/=. The reason given by the Accounting Officer that the Commission inadvertently failed to notice that the cover was due to lapse in April 2016 is not convincing;

Committee Recommendations

(i) Mr. Jairus Ojango Omumu, the Accounting Officer during the year under review should be held liable for failing to adhere to the provisions of Article 227 of the Constitution of Kenya, 2010 and Section 102 of the PPAD Act on the use of restricted tendering to award M/S Heritage Insurance the tender to provide medical insurance services for the Commissioners & Staff of National Police Service Commission (NPSC) at a cost of Kshs. 26,432,077;

(ii) Mr. Jairus Ojango Omumu, the Accounting Officer during the year under review should be held liable for failing to adhere to the provisions of Article 227 of the Constitution of Kenya, 2010 and Section 102 of the PPAD Act on the use of restricted tendering to procure group life/accident covers from Disney Insurance Brokers Company at a cost of Kshs. 1,341,336 and extending the contract for a period of one year at of Kshs. 1,341,336/=; and

(iii) The current Accounting Officer should issue a reprimand to the then head of procurement function unit for failure to adhere to the provisions of Section 152 PPAD Act 2015 which requires the head of the unit to effectively monitor, prepare and submit monthly progress reports to the accounting Officer on contracts including the group life/accident covers contract with Disney Insurance Brokers Company.

579. Compensation of Employees

The statement of receipts and payments reflects an amount of Kshs. 193,873,166 under compensation of employees, which includes payments to temporary employees of Kshs. 61,333,208 as disclosed under Note 4. Available information and documentation indicate that a total of Kshs. 32,353,200 was paid as wages for temporary employees hence leaving Kshs. 28,980,008 as unsupported expenditure. Further, audit of personal files, human resource minutes and payment vouchers indicate that out of the sixty (60) contracted employees, thirty nine (39) of them have served the Commission for a period of more than 12 months contrary to Section E.20 (1) of the Code of Regulations, 2006. No explanation has been provided regarding the anomaly. In addition, the employees on contract were paid for thirty one (31) working days including Saturdays and Sundays contrary to employment letters that states that the amount payable will be on daily basis. Further, the recruitment process was not clear since there were no advertisements placed. Consequently, the accuracy of compensation of employee's expenditure of Kshs. 193,873,166.00 could not be confirmed.

Submission by Accounting Officer

(a) Reconciliation of basic wages for temporary staff

The Accounting Officer submitted that the Commission has a budget item for contractual employee's emoluments which caters for payment of salaries/wages to temporary employees and deployed staff (civil servants, security personnel and investigators). In addition, the item also caters for daily allowances payable to the external panel members who sit in the vetting of police panels at the Commission. Reconciliation of the item was done and the unaccounted funds were fully accounted.

The Commission had engaged temporary staff on a six (6) months renewable contract subject to their services still being required and subject to exemplary job performance. These staffs that included research assistants, financial analysts, legal assistants, investigators, software developers, Hansard transcribers were engaged on a need basis to offer support in the vetting secretariat unit which was established by the Commission for purposes of the vetting of police officers exercise. As indicated above the contract was for six (6) months after which a fresh or new contract was to be entered into if the services were still required.

The Commission had noted that if it kept on replacing temporary staff with new ones after expiry of every contract, then the work would be adversely affected since it took time to train new staff to the required performance levels hence service delivery including set targets would be terribly compromised. Additionally, during the period under review, the Commission did not have approval to engage personnel for those positions on permanent basis hence the renewal of their contracts. The Commission has since rectified this position. Consequently, the contracts were terminated after which new engagements have been done either on permanent basis or short contracts of six months only and in strict compliance to existing laws and regulations.

The Commission paid a daily allowance to the temporary staff which included Saturdays and Sundays. This was necessitated by the fact that preparation for vetting files and documentation and actual participation during vetting called for working late beyond the normal working hours including working over the weekends and public holidays both in Nairobi and when in the field at the Counties. However, the Commission rectified this by engaging staff on permanent basis and short contracts of six months with clear terms of service and in strict compliance to existing laws and regulations.

(b) Recruitment process

The accounting officer submitted that the recruitment of temporary staff was done competitively by the management committee. The Commission maintains a data bank of applicants of various positions in the Commission which was derived from applications received in September 2013 when the commission had advertised for filling of various positions in its establishment. Other applications received from job seekers are also captured in the data bank for consideration as and when vacancies arise and there is either a need to replace leavers or to strengthen some units.

Committee Observations and Findings

(i) The Accounting Officer did not provide timely reconciliation of statement of receipts and payments where compensation of employees including payments to temporary employees of Kshs. 61,333,208, was not reconciled in time for audit. A total of Kshs. 32,353,200 was paid as wages for temporary employees hence leaving Kshs. 28,980,008 as unsupported expenditure as at the time of audit. Reconciliation of the item was done and the unaccounted funds were fully accounted;

(ii) The recruitment process for temporary employees at the NPSC is opaque. The Commission does not place advertisement to afford all Kenyans an opportunity to serve but instead relies on data bank of applicants received in September 2013. Further, the Commission relies on other random applications received from job seekers;

(iii)Thirtynine (39) sixty out of (60) contracted employees have served the Commission for a period of more than 12 months contrary to Section E.20 (1) of the public service Code of Regulations, 2006

Committee Recommendations

(i) The Accounting Officer should ensure that the entity keeps complete and reconciled financial and accounting records including up to date statement of receipts and payments that comply with provisions of Section 68(2) of the PFM Act 2012 and that the records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012; and

(ii) The NPSC should at all times ensure that recruitment process at the Commission is open and transparent for all members of the public. Further, recruitment even if temporary for professional cadres such as research assistants, financial analysts, legal assistants, investigators, and software developers should always be advertised to afford opportunity to all qualified Kenyans.

580. Pending Bills

As a 30 June 2016, the Commission had a total of Kshs. 7,733,192 pending bills that ought to have been settled as at the year end. No justification has been provided for failure to settle the pending bills.

Submission by Accounting Officer

The Accounting Officer submitted that the Commission accrued a pending bill of Kshs. 7,733,191.65. The bills remained unpaid due to closure of the IFMIS system, submission of wrong bank details, Missing Payments in Internet Banking(IB) system and inadequate budgetary provision as indicated in the matrix below: -

S/ NO	FIRM NAME	DESCRIPTION	PREFERENCE GROUP	AMOUNT	REMARKS	STATUS
1	Longrock Tours and Travel Ltd	Air Ticketing and Travel Services	Women	253,000.00	Closure of IFMIS System	Cleared
2	Facilities Star Ltd	Repair and Maintenance of Office Equipment	Youth	152,704.00	Closure of IFMIS System	Cleared
3	Dewat Enterprises	Supply of Stationery	Women	55,000.00	Closure of IFMIS System	Cleared
4	Tricatex Investments	Supply of Stationery	Youth	45,000.00	Closure of IFMIS System	Cleared
5	Utooni Ltd	Supply of Stationery	Youth	112,655.15	Submission of wrong bank details	Cleared
6	Jepco Services and Renovators	Provision of Cleaning Services	Women	300,348.00	Closure of IFMIS System	Cleared
7	Just Stationers Ltd	Supply of Stationery	Youth	184,000.00	Closure of IFMIS System	Cleared
8	Decision Analyst limited-VAT	Supply of Stationery	Youth	22,321.50	Submission of wrong bank details	Cleared

9	Leveners Office Supplies - VAT	Supply of Stationery	Women	25,862.00	Closure of IFMIS System	Cleared
	Sub Total			**1,150,890.65**		
10	Telkom Kenya Ltd	Repair and Maintenance of Office Equipment	Citizen Contractors	41,760.00	Closure of IFMIS System	Cleared
11	Copy Cat Ltd	Repair and Maintenance of Office Equipment	Citizen Contractors	241,222.00	Closure of IFMIS System	Cleared
12	Tipton Enterprises	Supply of Stationery	Citizen Contractors	46,200.00	Closure of IFMIS System	Cleared
13	Laico Regency Hotel	Provision of catering services	Citizen Contractors	81,000.00	Invalid Tax Compliance Certificate	Cleared
14	Greomak Auto Services	Repair and Maintenance of Motor vehicles	Citizen Contractors	64,106.00	Closure of IFMIS System	Cleared
15	Madara Motor Services	Repair and Maintenance of Motor vehicles	Citizen Contractors	245,862.00	Closure of IFMIS System	Cleared
16	Stantech Motors	Repair and Maintenance of GK 689C	Citizen Contractors	130,807.00	Closure of IFMIS System	Cleared
17	CMC Motors	Repair and Maintenance of GKB 065D	Citizen Contractors	132,535.00	Closure of IFMIS System	Cleared
18	Park Plaza Ltd	Electricity	Citizen Contractors	493,731.00	Closure of IFMIS System	Cleared

19	Park Plaza – VAT	Electricity	Citizen Contractors	10,272.00	Missing Payments in IB	Cleared
20	Rickways Renovators	Refurbishment	Citizen Contractors	5,094,806.00	Insufficient Budget	Cleared
	Sub Total			**6,582,301.00**		
	Grand Total			**7,733,191.65**		

As indicated on the last column, the Commission settled all the pending bills as they form the first charge of the budget of the following financial year.

Committee Observations and Findings

(i) The NSPC accrued a pending bill of Kshs. 7,733,191.65 in the FY 2015/2016. The bills remained unpaid due to closure of the IFMIS system, submission of wrong bank details, missing payments in internet bankingIB) system and inadequate budgetary provision; and

(ii) The Commission settled all the pending bills as they formed the first charge of the budget of the FY 2016/2017.

Committee Recommendations

Accounting Officers should at all times avoid incurring pending bills in any financial year since any pending bill forms a first charge in the subsequent financial year's budget thereby impeding smooth implementation of the subsequent budget.

581. Hospitality, Supplies and Services

Reflected under receipts and payments expenditure of Kshs. 249,836,976 on account of goods and services and as reflected in Note 5 to the financial statements is an amount of Kshs. 36,121,418 in respect of hospitality, supplies and services. This figure differs with the trial balance expenditure figure of Kshs. 37,459,646 by an unreconciled difference of Kshs. 1,338,228.

Submission by Accounting Officer

The Accounting Officer submitted that the hospitality, supplies and services item reflected Kshs. 36,121,418/= as indicated under note 5 while the trial balance reflected Kshs. 37,459,646/= as expenditure incurred during the year. The variance of Kshs. 1,338,228/= included a figure of Kshs. 871,181/= in Note 6 being a payment to the National Treasury, and the balance represented payments that did not go through Internet banking (IB). Adjustments have since been done in our records to reflect the correct position.

Committee Observations and Findings

(i) **Receipts and payments expenditure of Kshs. 249,836,976 include an amount of Kshs. 36,121,418 in respect of hospitality, supplies and services which differed with the trial balance expenditure figure of Kshs. 37,459,646 by an unreconciled difference of Kshs. 1,338,228; and**

(ii) **The variance of Kshs. 1,338,228/= included a figure of Kshs. 871,181/= being a payment to the National Treasury, and the balance of Ksh. 467,047 represented various payments that did not go through Internet banking (IB) hence pending bills.**

Committee Recommendations

(i) **Accounting Officers should ensure that the entity keeps complete and reconciled financial and accounting records including up to date statement of receipts and payments that comply with provisions of Section 68(2) of the PFM Act 2012 and that the records are presented within three (3) months after the close of the financial year pursuant to the provisions of Article 229 of the Constitution of Kenya 2010 and Section 68(2k) of the PFM Act 2012; and**

(ii) **Accounting Officers should at all times avoid incurring pending bills in any financial year since any pending bill forms a first charge in the subsequent financial year's budget thereby impeding smooth implementation of the subsequent budget;**

582. Unsupported/Disputed Payment of Rent and Parking Fees

As previously reported, the unsatisfactory matters relating to failure by the Commission to sign a lease agreement with the Landlord has not been resolved in the year under review.

Submission by Accounting Officer

The Accounting Officer submitted that during the period under review, the Commission was using the Head of Terms signed between the Landlord and the Commission, which is legally binding, and it was the basis for payment of rent on quarterly basis since there was a delay in signing the Lease Agreement. This was attributed to contentious issues in the draft Lease Agreement between the Ministry of Public works, Lands and Housing, and the Landlord. However, the contract existing then has since expired and the Commission has entered in to a new contract with a new lease signed between the landlord and the Accounting Officer and witnessed by the Commission's Legal Department. The document is available for verification. The Accounting Officer is committed to ensuring that all contracts entered in to by the Commission are lawful and in strict compliance to all prevailing laws and regulations.

Committee Observations and Findings

(i) **The NPSC was using the Head of Terms signed between the Landlord and the Commission, which was legally binding, and it was the basis for payment of rent on quarterly basis since there was a delay in signing the lease Agreement. This was attributed**

to contentious issues in the draft lease agreement between the Ministry of Public works, Lands and Housing, and the landlord; and

(ii) The contract has since expired and the Commission has entered into a new contract and a new lease signed between the landlord and the Accounting Officer and witnessed by the Commission's Legal Department.

Committee Recommendations

The Accounting Officer should ensure that all contracts entered in to by the Commission are lawful and in strict compliance with all prevailing laws and regulations.

43.0. CONTROLLER OF BUDGET

FINANCIAL STATEMENTS FOR VOTE 2121

Unqualified Opinion

There were no material issued noted during the audit of the financial statements of the Controller of Budget.

Committee Observations

(i) The Controller of Budget received an unqualified opinion.
(ii) The Committee commends the Accounting Officer and the team at the Office of the Controller of Budget for its strict adherence to the principles and guidelines of public finance management in keeping compliant financial statements.

Committee Recommendations

Accounting Officers must at all times ensure that they comply with the principles of public finance relating to financial management and fiscal reporting as set out in the management of public resources in compliance with the provisions of Article 201 of the Constitution and the Public Finance Management Act, 2012.

44.0. COMMISSION ON ADMINISTRATIVE JUSTICE

FINANCIAL STATEMENTS FOR VOTE 2131

Mr. Leonard Ngaluma, the Accounting Officer for Vote 2131, Commission on Administrative Justiceappeared before the Committee on 30th May 2018 to adduce evidence on the audited Financial Statements of Vote 2131Commission on Administrative Justicefor the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **Mr. D. M Karamio -Director Finance Administration;**
2. **Mr. Bernard Nyarila - Senior Accountant;**
3. **Ms. Jenifer Arodi – ASCM; and**
4. **Mr. Wilson Ihori - Admin Assistant**

Basis for Qualified Opinion

583. Pending Bills

As disclosed under note 12 to the financial statements, the Commission had pending bills totalling Kshs.7,126,021 as at 30 June 2016. Had the bills been paid in 2015/2016 financial year, the statement of receipts and payments for the year then ended would have reflected a reduced surplus of Kshs.20,111,488 instead of Kshs.27,237,509 now shown.

Submission by Accounting Officer

The Accounting Officer stated that the Commission carried forward pending bills amounting to Kshs. Kshs.7,126,021 due to factors beyond its control, to a great extent as follows:

1. Delay by the National Treasury to upload the full budgetary allocation on one-off procurable items despite the Commission's effort to follow up on the same. This hindered the Commission from initiating procurement process in good time, hence, some of the goods were only invoiced on or after 30th June 2016 and could not therefore be paid for within the financial year under review.
2. De-activation of some of the e-procurement and IFMIS portal towards the closure of the financial year which hindered processing of invoices received on 30th June 2016.
3. IFMIS down time also aggravated the delay to initiate the procurement and payment processes, as sometimes it took long to rectify the same.

Current Status

The Commission has since settled all the pending bills under reference, and has endeavored to ensure that it does not accumulate pending bills by the closure of the financial year. It is worthwhile to note that in the 2016/2017 financial year, the Commission did not have any pending bills by 30th June 2017. The National Treasury should ensure that budgetary allocation for items that are procurable once are released in good time to avoid last minute rush.

Committee Observations and Findings

(i) The submission by the Accounting Officer that delay by the National Treasury to upload the full budgetary allocation on one-off procurable items hindered the Commission from initiating procurement process in good time, hence, some of the goods were only invoiced on or after 30th June 2016 and could not therefore be paid for within the financial year under review was persuasive.

(ii) The Committee marked the matter as resolved.

Committee Recommendations

The Accounting Officer must at all times ensure that pending bills in any financial year are avoided at all cost and where pending bills are outstanding, they should form a first charge in the subsequent year's budget thereby guaranteeing smooth implementation of the subsequent budget.

45.0. NATIONAL GENDER AND EQUALITY COMMISSION

FINANCIAL STATEMENTS FOR VOTE 2141

Mr. Sora Katelo the Accounting Officers for Vote 2141and Ag. Chief Executive Officer of the National Gender and Equality Commission appeared before the Committee on 5th March 2019 to adduce evidence on the audited Financial Statements of Vote 2141,National Gender and EqualityCommission for the Financial Year 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **Ms. Beatrice Chemiyot - Ag. Finance Manager**
2. **Mr. Goretty Osur - Principal Programme Officer**

Basis for Qualified Opinion

584. Irregular Lease Payments

The expenditure balance of Kshs.137,153,717 on use of goods and services reflected in the financial statements for the year ended 30 June 2016 includes amounts totalling Kshs.476,921, which were irregularly paid to a firm for lease of offices by the Commission at Nakuru/Municipality Block 9/121. The amounts comprise a double payment of Kshs.374,723 and an overpayment of Kshs.102,198 to the firm. As a result, the propriety of the expenditure totalling Kshs.476,921 incurred on use of goods and services cannot be confirmed.

Submission by Accounting Officer

1. **Double payment of Kshs 374,723.00**

The Accounting Officer submitted that the Commission notified the landlord of rent overpayment vide letter referenced NGEC/NACHA/NKR/01(2017) on 17th January 2017. This was acknowledged by the landlord through a letter dated 20th January 2017 where the overpayment was applied to cover the period June 2016 to November 2016. (Attached is a letter from Nacha)

There was no loss of cash by the Commission since the recovery was done.

2. **Overpayment of lease**

The Commission signed a lease agreement of 340,657 payable quarterly but has been paying rent of 374,723 per quarter resulting in overpayment of Kshs 102,198.00

The overpayment of lease was notified to the landlord who acknowledged through his letter dated 20th January 2017. (Attached).The landlord was instructed to deduct the excess lease payment from rent payable March to May 2017. The recovery was done through the Voucher PV No 1502 paid in April 2017. (Copy attached). The Commission did not lose any money since the recovery of excess payment was effected. The Commission is still a tenant of Nacha Investments

The matter has been concluded with the Auditor General

Committee Observations and Findings

(i) **The Committee was informed by a confirmation by the Auditor General that the recovery of the double payment of Kshs.374,723 and excess payment of Kshs. 102,198.00 of the lease was recovered.**
(ii) **The committee marked the matter as resolved.**

Committee Recommendations

Accounting Officers must at all times ensure that they provide the Auditor General and any other office, where relevant, with any information it may require to fulfill its functions pursuant to the provisions of section 68(2)(n) of the Public Finance Management Act, 2012.

46.0. INDEPENDENT POLICING OVERSIGHT AUTHORITY

FINANCIAL STATEMENTS FOR VOTE 2151

Mr. Maina Njoroge, the Accounting Officer for Vote 2151, Independent Policing and Oversight Authority appeared before the Committee on 30th August 2018 to adduce evidence on the audited Financial Statements of Vote 2151 Independent Policing Oversight Authority for the FY 2015/2016. Minutes of the Committee's sittings and the submissions tabled by the Accounting Officer are annexed to this report. He was accompanied by the following Officials:

1. **Ms. Eunice Juma - Director Business Service; and**
2. **Ms. Agatha Cheruiyot - Chief Accountant**

Basis for Qualified Opinion

585. Confidential Expenditure

Included in the statement of receipts and payments expenditure of Kshs. 129,471,546 on use of goods and Services for the year ended 30 June 2016 is an amount Kshs. 87,098 relating to confidential expenditure.

The Authority has not provided justification to support the confidential expenditure in accordance with provisions of Regulation 101(6) of the Public Finance Management Regulations, 2015. In addition, the Authority has not explained existing control measures that are in place to mitigate against risks of mismanaging confidential expenditure.

Submission by Accounting Officer

On budget provisions the accounting officer submitted that during the 2015/16 financial year, the Authority had a budgetary provision of Kshs. 1,089,600 for **Confidential Expenditure**. The amount was later scaled down to **Kshs. 105,877** after Kshs. 983,723 was reallocated to other budget lines that required additional resources.
The reallocation was also aimed at minimizing the need for utilization of Confidential Expenditure budget, thus keeping it at bare minimum and at a manageable level. Of the revised budget of Kshs. 105,877, the Authority incurred **Kshs. 87,098** on investigation cases that had attracted wide public interest especially in Nairobi and Mombasa. The expenditure was against a revised overall budget of Kshs. 396m for 2015/16 financial year.

On the Justification for Use of Confidential Expenditure, the accounting officer submitted that investigations arising from complaints received by the Authority from the public or by own motion is a core component of IPOA's mandate. This is indeed the basis for investigations.
The accounting officer noted that in carrying out its investigative work, the Authority was from time to time faced with challenges in obtaining relevant and crucial evidence to sustain a case through to conviction.

In some instances, critical evidence is obtained through intelligence and from key witnesses, who in most cases are usually apprehensive and thus unwilling to give evidence by recording statements or otherwise for fear of their lives or other resultant adverse consequences.

This is largely because some of the cases are extremely risky, sensitive and complex in nature, as they involve high-ranking police officers. In some cases, the evidence required includes video clips, photos, and other vital information to support investigations.

Considering the nature of the Authority's mandate, and particularly investigations, Confidential Expenditure is necessary to ensure completeness of investigations in terms of gathering credible evidence, where applicable. However, not all the investigation cases require this nature of expenditure.

During the 2015/16 financial year, IPOA incurred an amount of **Kshs. 87,098** to obtain evidence from some witnesses who did not want their identities disclosed for their security. In some of the cases, there was full disclosure as to the payees and amount paid to each.

The funds were spent solely in furtherance of ongoing investigations in safeguarding public interest. As indicated above, the Authority provided full disclosure in some of the cases in regard to payees and amounts expended.

Regulation 101(6) of the Public Finance Management Regulations, 2015/Control Measures
During the audit, the Management agreed with the audit observation on the utilization of Confidential Expenditure as per Regulation 101(6) of the Public Finance Management Regulations, 2015. The Management noted the specific circumstances in which Confidential Expenditure should be applied in accordance with the Regulations.

In response to the audit's Management Letter, the Authority committed that legal provisions shall be adhered to in future, paying special attention to applicability and accountability in every case requiring utilization of Confidential Expenditure funds.

Going forward, the Management expressed its firm commitment to develop and put in place effective control measures to mitigate the risk of mismanagement of such funds by staff. Accordingly, such funds shall, in future, be strictly guided by Regulations 101(5) and 101(6) of the PFM Regulations, 2015.

Implementation of Audit Recommendations

During the 2016/17 financial year, the Authority developed Confidential Funds Management Guidelines to inform the process of approving, utilization and accounting for Confidential Expenditure by staff.

The Guidelines were approved by the Board on **17th July 2017.** Asigned copy, of which was made available to the Auditor General during the 2016/17 financial year's audit. A copy is herewith attached for your reference and records.

The Guidelines were developed in fulfilment of Regulation 101(5) of the Public Finance Management Regulations, 2015 – that the Accounting Officer has satisfied himself that the money incurred has been properly expended, and has not been used to supplement the emoluments of any officer.

Matter Resolved with the Auditor General

During the audit of the Authority's 2016/17 financial statements, the **matter was fully resolved with the Auditor General.** Indeed, the Authority received an Unqualified Audit Opinion for the year ended 30 June 2017.

Further, the Authority did not utilize any funds on Confidential Expenditure during the 2017/18 financial year.

Conclusion

The Management assured the Committee that it is committed towards implementing the Auditor General's recommendations and to continue improving the Authority's internal controls in all its operational areas. This is aimed at ensuring effective control, accountability, financial probity, and reporting.

Additionally, the Management is steadfast towards enhancing the accountability mechanism on the use of **Confidential Expenditure** to ensure that public resources are utilized solely for the intended purpose, and in full compliance with the Public Finance Management Act, 2012 and Regulations, 2015.

Committee Observations and Findings

(i) **The IPOA incurred a total of Kshs. 87,098 in the FY 2015/2016 classified as confidential expenditures on investigation cases that had attracted wide public interest especially in Nairobi and Mombasa;**

(ii) **The Accounting Officer did not provided justification to the Auditor General at the time of audit to support the confidential expenditure in accordance Regulation 101(6) of the PFM (National Government) Regulations, 2015;and**

(iii) **The IPOA has put in place Confidential Funds Management Guidelines to inform the process of approving, utilization and accounting for Confidential Expenditure by staff.**

Committee Recommendations

(i) **Accounting Officers must at all times adheres to the provisions of the PFM laws on confidential expenditures particularly Regulation 101(6) of the PFM (National Government) Regulations, 2015; and**

(ii) **The Cabinet Secretary, National Treasuryshould within three (3) months of adoption of this report, undertake the development of comprehensive government confidential expenditures guidelines with a view to streamline the process of approving, utilization and accounting for Confidential Expenditure by staff.**

Sign:…………………………………………………. Date: 18th April, 2019….

HON. JAMES OPIYO WANDAYI, MP

CHAIRPERSON